



August 5, 2024

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, 9th Floor
Sacramento, CA 95814

The Honorable Cecilia Aguiar-Curry
Assembly District 4
1021 O Street, Suite 6350
Sacramento, CA 95814

RE: Opposition to Proposed Technical Assistance on AB 2223 (Aguiar-Curry)

On behalf of the National Craft Cannabis Coalition (NCCC), a nationwide coalition composed of state-level associations representing over 1,000 small and independent cannabis businesses in California, Maine, Vermont, and Washington, we are writing in opposition to proposed technical assistance (“TA”) on AB 2223 dated June 28, 2024.

As a nationwide coalition focused on federal policy, NCCC typically does not weigh into state-level cannabis policy questions. However, proposed TA on AB 2223 is different due to the damaging precedent that we believe this proposal, if enacted, would set for small and craft cannabis producers nationwide.

On its surface, the proposed TA seeks to align regulations between hemp and cannabis by incorporating high-THC hemp products into the legal cannabis supply chain. While the TA seeks to align regulations between hemp and cannabis for manufacturing, distribution, and retail sale, the TA also maintains existing dramatic disparities between the regulation of hemp and cannabis cultivation.

These disparities are substantial. While hemp cultivation is considered federally legal under the 2018 Farm Bill, cannabis cultivation continues to be subject to federal criminalization. Further, while hemp cultivation is regulated as a typical agricultural activity under USDA and most state laws, cannabis cultivation is not considered an agricultural activity in most states.

In California, cannabis cultivation is regulated to a dramatically higher standard than hemp cultivation in terms of licensing fees, operational requirements, environmental requirements, local taxation, and more. This disparity is left unaddressed in the proposed TA, risking devastating consequences for cannabis cultivators who will be unable to compete with much more lightly-regulated hemp cultivators now fully authorized to compete within the same high-THC market.

While entrenching disparities between hemp and cannabis cultivation within California, the proposed TA would also extend this disadvantage into the nationwide market by granting California cannabis distributors an exclusive right to import and export high-THC hemp products - but not cannabis products - in interstate commerce.

Under the TA's proposed interstate commerce provisions, California cannabis cultivators would be required to compete with federally-legal, high-THC hemp imports originating from anywhere in the nation, including some of the nation's largest multi-state operators who have now pivoted into high-THC hemp products.¹ At the same time, craft California cultivators would have no ability to compete in a truly open market by exporting their own cannabis products to other states.

As NCCC engages on federal policy matters related to cannabis, hemp, and interstate commerce, we are concerned that these dynamics would set a damaging precedent in both the national policy conversation and in each of our respective states. Most crucially, while the federal conversation on cannabis legalization appears to have stalled due to a divided U.S. Congress, we believe the federal conversation on *cannabinoid* regulation is at a critical juncture - one in which the very same issues raised by the proposed TA may be adjudicated at the federal level in the near future.

In September 2023, the Cannabis Regulators Association,² a nationwide association of cannabis regulators, sent Congress a letter advocating for the Farm Bill to include a federal definition for "hemp-derived cannabinoid products" - the same construct proposed by the TA - and to establish a federal regulatory structure for cannabinoids (*"identify, authorize, and fund a federal regulator with a background in public health and consumer protection to regulate cannabinoids and cannabinoid hemp products"*).³

¹ <https://mjbizdaily.com/curaleaf-joins-large-marijuana-operators-pivoting-to-hemp-derived-thc/>

² <https://www.cann-ra.org/>

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Following this proposal, in July 2024, the House Appropriations Committee approved a conceptually aligned amendment that would direct FDA to study the potential of regulating “cannabinoid hemp products,” including labeling, packaging, and testing standards.⁴

As with the proposed TA, each of these proposals seeks to establish a regulatory structure in high-THC hemp products, but fails to address the dramatic disparities between the regulation of cannabis and hemp cultivation at both the state and federal level. Similarly, each of these proposals fails to address the cannabis prohibition elephant in the room, proposing to establish regulatory structures for high-THC hemp products while cannabis itself remains federally criminalized.

With the structure of federal cannabinoid regulation and interstate cannabis commerce still under deliberation, we believe that California’s leadership will play a significant role. If California chooses to protect its craft cannabis producers by regulating cannabis and hemp cultivation at parity as agricultural activities, and by providing equitable market access through direct-to-consumer sales, we believe these policy choices will reverberate across the country to support all craft producers nationwide.

Conversely, if California chooses to embrace a regulatory framework for high-THC products that privileges hemp cultivation, while excluding small cannabis cultivators from participating on an even playing field in interstate commerce, we are concerned that these same patterns are likely to prevail within the national conversation, resulting in significant harm not just for small California cannabis cultivators but for craft cannabis producers nationwide.

For these reasons, we are regrettably opposed to proposed technical assistance on AB 2223.

Sincerely,

Genine Coleman
Executive Director
Origins Council

Mark Barnett
Executive Director
Maine Craft Cannabis Association

Geoffrey Pizzutillo
Executive Director
Vermont Growers Association

Micah Sherman
Board Member
Washington Sun & Craft Growers Association

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<https://www.marijuanamoment.net/gop-led-congressional-committee-approves-bill-to-ban-most-consumable-hemp-products-such-as-delta-8-thc/>