



April 7, 2025

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

RE: AB 8 (Aguiar-Curry) Cannabis: cannabinoids: industrial hemp - Oppose Unless Amended

On behalf of Origins Council, representing 400 small and independent cannabis businesses in rural legacy producing counties throughout California, most of whom are small and homestead rural cultivators, we are writing to respectfully oppose AB 8 unless amended to disallow the integration of intoxicating hemp products and cannabinoids into the cannabis supply chain.

We appreciate that AB 8 has been amended significantly in comparison to drafts of AB 2223 which circulated in the last legislative session. In our view, AB 8 is both clearer and closer to addressing our concerns in comparison to prior legislative proposals on hemp integration. For example, we appreciate that AB 8 contains a clear statutory definition of a synthetic or chemically converted cannabinoid, and shows clear intent to prohibit these products.

Where we believe AB 8 still falls short, however, is in failing to restrict the incorporation of *naturally-occurring*, high-THC hemp into the cannabis supply chain at either the point of manufacturing or the point of retail.

For licensed small cannabis cultivators, the stakes of hemp integration are extremely high. As we have discussed in detail in previous letters, and reiterate in this letter, cannabis cultivation is regulated to an *exponentially* higher degree than hemp cultivation under local, state, and federal

laws.¹ If hemp-derived THC - whether synthetic or naturally-derived - can lawfully be used as a substitute for cannabis-derived THC, already-struggling licensed California cannabis cultivators will be put at a severe disadvantage. Establishing a separate pathway for unlicensed actors to produce high-THC products for the California cannabis market would have profound negative consequences for cultivation licensees and dramatically alter the foundations of the Proposition 64 framework approved by voters.

We are aware of claims that restrictions on naturally-derived hemp THC are unnecessary because this form of THC is not commercially viable. **We believe this claim is demonstrably false** - on the most basic level, because high-THC hemp products containing naturally-derived THC are being openly marketed and sold *now*, but also because the analysis supporting this claim fails to account for critical legal factors (e.g. Farm Bill loopholes enabling high-THC hemp flower and biomass) and technical realities (e.g. the production of concentrated THC as a byproduct of CBD extraction) which have made these products widely available. This letter discusses these dynamics in detail.

The potential impacts of high-THC hemp integration extend beyond impacts to licensed cultivators. With cannabis tax policy under consideration this year in the legislature, there are strong reasons to believe that integration of high-THC hemp into the cannabis supply chain may drive further declines to state cannabis tax revenue. A March 5 DCC/ERA Economics report on the state of the California cannabis market found that while the volume of cannabis sales has continued to increase over time, net tax revenue has simultaneously *declined* significantly due to decreases in cannabis prices.² Incorporating high-THC hemp products and cannabinoids into the California cannabis supply chain - thereby effectively expanding available inputs beyond ~2,000 acres of existing California cannabis production³ to include ~28,000 acres of U.S. hemp production⁴ - would significantly magnify the existing cannabis production glut. This compounding oversupply would likely drive down prices further, accelerating the current factors identified in the DCC report as driving declining tax revenue.

Despite our concerns with the bill as written, we believe there are concrete and specific amendments to AB 8 that can address our concerns. To that end, this letter is divided into several parts.

- First, we consider how naturally-occurring hemp THC can be used to produce commercially viable high-THC hemp products and cannabinoids.

¹ A detailed discussion on the substantial disparities in regulation between hemp and cannabis cultivation is included as an appendix to this letter. The appendix also discusses pending regulatory actions from DCC that would further reentrench this disparity.

² Page 69 of the report finds that “The downward trend in retail sales is *driven entirely by prices*—quantity sold, in terms of flower weight and units of edibles and vape cartridges, has continued to increase.”

³ https://crc.berkeley.edu/wp-content/uploads/2021/01/CRC_Brief_LandUse_2021_0119.pdf

⁴ <https://cropwatch.unl.edu/2024/usdas-national-agricultural-statistics-service-conduct-hemp-survey/>

- Second we consider a variety of specific scenarios in which high-THC hemp products, either synthetically or naturally-derived, could enter the cannabis supply chain if integration were authorized. We analyze how AB 8 would address these scenarios, and provide recommendations to prevent the integration of high-THC hemp from both natural and synthetic sources.
- Finally, we provide a mock-up of suggested amendments to AB 8 that would address our concerns.

Commercially Viable High-THC Products Can be Produced from Naturally-Derived Hemp THC

There are multiple methods by which commercially viable, naturally-derived high-THC products can be produced from hemp without any use of a chemical conversion. These products currently exist and are being sold widely on the commercial market. For example, in a 2024 Forbes article,⁵ California brand Kiva discusses their use of natural hemp-derived THC in their new nationwide hemp line.

“In Alameda, California, Kristi and Scott Palmer, the founders of Kiva, one of the country’s biggest cannabis edibles manufacturers that generates more than \$200 million in annual sales, say they have decided to expand into hemp.

“The cost of compliance and taxes, it feels like the chips are stacked against you in cannabis,” says Kristi, explaining that the company will continue to operate in the licensed marijuana market as well. “Whereas hemp, it feels like there’s a there’s a light, there’s hope, it feels easier.”

*Kiva sells marijuana gummies and chocolates through licensed dispensaries in 11 states. Due to marijuana being a federally illegal drug, Kiva must manufacture its products in each state it sells in. But after launching its hemp line, which it sells online directly to consumers, Kiva added 26 other states to its footprint and manufactures its hemp-derived THC products in Florida. **(Kiva’s hemp gummies are made with THC extracted from the plant itself to avoid the DEA’s position on synthetically made cannabinoids.)**”*

Other companies selling high-THC hemp products commonly tout their THC as naturally derived. For example, Cantrip, which sells hemp drinks containing between 5-50mg THC, states on their website that *“every Cantrip is made with THC right from the plant, not synthetic chemicals from a lab.”*⁶ Other examples of high-THC hemp brands that market themselves as containing naturally-derived hemp THC include Brez,⁷ Happi,⁸ and Cornbread Hemp.⁹

Below, we consider multiple commercially viable methods by which high-THC products can be derived from hemp without the use of chemical conversions or synthetic cannabinoids.

⁵ <https://www.forbes.com/sites/willyakowicz/2024/04/19/the-cannabis-civil-war-hemp-vs-marijuana/>

⁶ <https://drinkcantrip.com/pages/why-cantrip>

⁷ <https://shop.drinkbrez.com/product/lemon-double/>

⁸ <https://happihourdrink.com>

⁹ https://www.cornbreadfarms.com/products/full-spectrum-hemp-gummies?selling_plan=4086104281

- a. Large quantities of naturally-occurring THC can be extracted from non-compliant (but unenforced) high-THC hemp.

Put simply, a significant proportion of what currently circulates as “hemp” is currently high-THC cannabis utilizing fraudulent COA. Because hemp and cannabis generally cannot be distinguished except through technically-involved laboratory testing, enforcing a distinction between cannabis and hemp once plant material leaves the farm can be challenging. A recent report from Oregon found that every sample of hemp flower tested by investigators at retail contained more than 0.3% THC, with some samples containing more than 30% THC.¹⁰

- b. Large quantities of naturally-occurring THC can be extracted from “high THCa hemp” which is widely prevalent and arguably Farm Bill compliant.

Since the passage of the 2018 Farm Bill, many hemp industry attorneys have argued that hemp containing high levels of tetrahydrocannabinolic acid (THCa) is not subject to the Farm Bill’s 0.3% limit on tetrahydrocannabinol (THC). Because cannabis naturally contains high levels of THCa, it has become extremely common for hemp operators to grow and sell “high THCa” hemp as an ostensibly Farm Bill-compliant, intoxicating product.¹¹

This “high THCa loophole,” including the potential for THCa to be used in a variety of inhalable and concentrated THC products, is also discussed in the DCC/ERA Economics report¹² presented to the legislature in March:

“Hemp cultivars may contain high levels of THCA, a non-psychoactive compound which, when heated, undergoes decarboxylation and transforms into Delta 9 THC, a psychoactive component of cannabis... roughly 1,558 thousand pounds of hemp biomass (and around 110 thousand pounds of high THCA flower) were harvested in California in 2023... High THCA flower is used to produce inhalable hemp products as well as manufactured products such as oils, capsules, and edibles.”

- c. Significant quantities of naturally-occurring THC (“mother liquor,” or MoLo) are inherently produced as a byproduct of extracting CBD from otherwise-compliant hemp, and can then be concentrated and included into high THC products.

¹⁰ <https://ktvz.com/news/oregon-northwest/2025/03/19/olcc-report-many-hemp-products-exceed-legal-thc-limits-lack-proper-labeling-are-sold-without-legal-age-checks/>

¹¹ <https://cannabusiness.law/how-is-this-not-hemp-peeking-under-the-hood-at-a-thca-hemp-flower-production-facility/>

¹² <https://cannabis.ca.gov/wp-content/uploads/sites/2/2025/03/California-Cannabis-Market-Outlook-FNL.pdf>

Even when raw hemp biomass is compliant with the spirit and letter of the 2018 Farm Bill and legitimately contains less than 0.3% total THC, it is still possible to extract large amounts of commercially viable THC from this biomass. This is the case because, in the process of extracting CBD or terpenes from otherwise compliant hemp biomass, THC can be accumulated and concentrated into distilled THC known as “mother liquor” or MoLo.

This process is discussed in detail in a recent article from Ph.D. chemist Dr. Harold Han:

*“In the hemp supply chain, there is another route to obtain D9-THC that does not require chemical conversion. This type of input, which is called Mother Liquor (MoLo) or Refined Hemp Oil, has gained a lot of traction. Hemp is defined by having <0.3% D9-THC in flower at harvest. 0.3% is a seemingly low amount, but given the hemp industry’s scale, it can still be a sizable source of THC if special processes are used to efficiently accumulate, enrich, and purify this low level THC from hemp... **Demand for MoLo input has been steadily increasing, especially driven by large beverage / alcohol distributors.**”¹³*

Importantly, because distilled THC is produced as a *byproduct* of otherwise innocuous CBD or terpene extraction, it is not necessary for hemp THC extraction to be economically viable *in itself* so long as a company is already invested in producing CBD products or hemp-derived terpenes for sale.

Scenarios and Solutions for Integration of High THC Hemp

With this general background, we consider several specific scenarios for the integration of hemp into the cannabis supply chain. In each case, we pose rhetorical questions which we believe are important to address in statute. *We believe it is necessary to consider each of these scenarios independently within AB 8, as policy designed to address one scenario will not necessarily address all scenarios which arise in practice.*

Four scenarios concern the use of hemp-derived cannabinoids by licensed California manufacturers to produce a manufactured product:

- **A California manufacturer produces synthetic cannabinoids from Farm Bill compliant industrial hemp through a chemical conversion** - a licensed California cannabis manufacturer purchases high-CBD industrial hemp and chemically converts it to delta-8 or delta-9 THC for inclusion in a cannabis product. Understanding that AB 8 intends to prohibit this activity, how can this prohibition be enforced (e.g. how can chemically derived THC be distinguished from naturally-occurring THC)?

¹³ https://www.linkedin.com/pulse/science-product-makers-hemp-d9-mother-liquor-harold-han-nmbc?utm_source=share&utm_medium=member_ios&utm_campaign=share_via

- **Farm Bill non-compliant, high-THC “hot hemp” is purchased by a California manufacturer for inclusion in a high-THC product** - as discussed above, a significant proportion of “hemp” circulating nationwide is simply high-THC illicit cannabis with a fraudulent COA. How can AB 8 ensure that this form of hemp THC doesn’t enter the cannabis supply chain?
- **(Arguably) Farm Bill compliant high-THCa hemp is purchased by a California manufacturer for inclusion in a high-THC product** - given the prevalence of high-THCa hemp claiming to be compliant under the Farm Bill, how can AB 8 ensure that this form of hemp THC doesn’t enter the cannabis supply chain?
- **A California manufacturer utilizes Farm Bill compliant low-THC hemp for non-intoxicating CBD products, but concentrates the residual THC for inclusion in cannabis products (“mother liquor”)** - as discussed above, the process of manufacturing compliant high-CBD products from compliant high-CBD hemp will necessarily produce THC extract as a byproduct. If significant quantities of CBD products are manufactured, significant quantities of concentrated THC will also be produced. How can AB 8 ensure that this concentrated hemp THC is not subsequently incorporated into a high-THC product?

An additional three scenarios concern the incorporation of final form hemp products into California cannabis supply chain which are intended for sale at a licensed cannabis retailer:

- **High-THC, final form manufactured products** - a hemp edible product containing 50mg THC and 50mg CBD is produced in Florida and integrated into the California cannabis supply chain for sale at a cannabis retailer. How can it be known whether the cannabinoids in this product were produced through synthetic or natural means? Additionally, if it were determined that the THC in the product was derived from exclusively natural sources, should this high-THC product be able to be incorporated into the cannabis supply chain?
- **Industrial hemp flower** - smokable hemp flower or pre-rolls are purchased by a licensed California distributor for sale at cannabis retail. Is this allowable?
- **Traditional, high-CBD, non-intoxicating hemp manufactured products** - Farm Bill compliant industrial hemp is used to produce a non-intoxicating product high in CBD for sale into the California cannabis market. We are not opposed to this product type.

The below table summarizes each of these scenarios, describes our concerns with the current approach in AB 8 (if applicable), and offers potential solutions to resolve these concerns.

Type of Product/Situation	Current AB 8 Policy	Concern with AB 8 approach	OC Recommendation
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Synthetic cannabinoids - a final form hemp product contains synthetic or chemically converted cannabinoids	Intent appears to be to prohibit	Support the intent, but: 1) There is no proposed mechanism to differentiate synthetic cannabinoids from naturally-occurring cannabinoids and enforce appropriately 2) The language prohibiting synthetic cannabinoids is imprecise	Maintain the prohibition on synthetic cannabinoids, and also: 1) establish an enforcement mechanism to differentiate synthetic or converted cannabinoids from naturally-occurring cannabinoids, e.g. by requiring testing for chemical by-products 2) clarify language by amending BPC 26070.2(c) to prohibit “products containing synthetic cannabinoids,” rather than “synthetic cannabis products”
Extraction of high-THC “hot hemp” biomass by a cannabis manufacturer, or purchase of high-THC hemp-derived concentrate by a cannabis manufacturer	No clear limitation or restriction	High-THC hemp with a fraudulent COA is prevalent and a full substitute for high-THC cannabis flower/biomass - displacing California cannabis cultivators held to exponentially higher standards	Require testing of industrial hemp batches upon integration into the cannabis supply chain to verify that total THC content (THC+THCa) is below 0.3%
THCa extractions from hemp biomass by a cannabis manufacturer - raw industrial hemp containing high levels of THCa integrated into the cannabis supply chain at the point of the manufacturer, and incorporated into a high-THC cannabis or hemp product	No clear limitation or restriction	High THCa hemp is prevalent, arguably Farm Bill-compliant, and is a full substitute for high-THC cannabis flower/biomass - displacing California cannabis cultivators held to exponentially higher standards	Require testing of industrial hemp batches upon integration into the cannabis supply chain to verify that total THC content (THC+THCa) is below 0.3%
Extraction of THC	No clear	Naturally-occurring THC	1) Expressly prohibit the

<p>“mother liquor” from hemp biomass by a cannabis manufacturer - raw industrial hemp containing <0.3% total THC is used to produce high-CBD or terpenoid products, but a significant amount concentrated THC is produced as a by-product</p>	<p>limitation or restriction</p>	<p>extracted as a by-product from otherwise compliant industrial hemp (“mother liquor,” or MoLo) can be used to produce high-THC products, displacing cannabis cultivators</p>	<p>incorporation of naturally-occurring, hemp-derived THC into hemp or cannabis products produced by a cannabis manufacturer</p> <p>2) Require the disposal of concentrated THC which is produced as a byproduct of CBD extractions</p>
<p>High-THC, final form manufactured products - a final-form, high-THC hemp manufactured product (e.g. a 50mg THC, 50mg CBD produced in another state) is integrated into the cannabis supply chain at the point of distribution/retail</p>	<p>No clear limitation or restriction</p>	<p>1) High-THC hemp products, regardless of synthetic or natural derivation, will displace California cannabis cultivators held to exponentially higher standards</p> <p>2) No mechanism to determine how THC content in final form product was derived</p>	<p>1) Prohibit the integration of final form high-THC hemp products by placing a quantitative cap, in milligrams, on the amount of allowable THC in these products at non-intoxicating levels¹⁴</p> <p>2) establish an enforcement mechanism to differentiate synthetic or converted cannabinoids, such as required tested (see above)</p>
<p>Inhalable hemp flower - smokable hemp flower is integrated into the cannabis supply chain</p>	<p>Intent unclear, but technically doesn’t appear to be restricted</p>	<p>BPC 26070.2(b) prohibits <i>“an inhalable cannabis product derived in whole or in part from industrial hemp,”</i> but “cannabis products” is defined to refer specifically to products containing</p>	<p>Clarify language to prohibit any form of inhalable hemp from sale in the cannabis supply chain. SB 378 as amended on March 26, 2025 contains one approach to this language.</p>

¹⁴ Note that the federal standard of 0.3% THC by dry weight is not viable in the context of manufactured hemp products if the goal is to restrict intoxicating products; only a weight-based cap (e.g. in milligrams) is effective in this context. While the 0.3% THC standard is sensible for hemp plant material, it leaves open a substantial loophole for edible, beverage, or dietary supplement hemp products to contain large, highly intoxicating doses of THC. For example, a typical energy bar weighing 60 grams (60,000 milligrams) would be allowed to contain up to 180mg THC if limited to 0.3% THC concentration by weight. This is the loophole used in practice by all companies selling manufactured high-THC hemp products including edibles, beverages, etc.

		concentrated cannabinoids. This appears to mean that non-concentrated inhalable products (e.g. hemp flower) would not be restricted	
High-CBD, non-intoxicating manufactured hemp products - non-intoxicating manufactured hemp products (tinctures, edibles, etc.) containing predominantly CBD	May be integrated into the cannabis supply chain	No concerns	No additional recommendation

In proposing each of the recommendations above, we believe it's critical that each proposed solution is practically implementable, and welcome any feedback on whether and how these solutions can potentially be implemented.

Below, we provide a mock-up with statutory recommendations to address each of these scenarios.

Origins Council Proposed Amendments to AB 8

Section 26070.2 of the Business and Professions Code is amended to read:

26070.2. A licensee shall not sell, offer, or provide cannabis or a cannabis product in the state that is any of the following:

(a) An alcoholic beverage, including, but not limited to, an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage.

(b) ~~An~~ **Any** inhalable ~~cannabis~~ product derived in whole or in part from industrial hemp, **including, but not limited to, hemp flower, hemp prerolls, hemp vaping cartridges, liquids, or prefilled devices, hemp shatter, wax, budder, or other hemp derived concentrates that can be used for inhalation.**

(c) ~~A synthetic cannabis product.~~ **A product containing any synthetic cannabinoids.**

Section 26100 of the Business and Professions Code is amended to read:

26100 (a) Except as otherwise provided by law, ~~cannabis, industrial hemp, or cannabis products~~ shall not be sold pursuant to a license provided for under this division unless a representative sample of the ~~cannabis, industrial hemp, or cannabis products~~ has been tested by a licensed testing laboratory.

(b) Upon entry into the licensed market, **each batch of** industrial hemp and cannabis products derived **exclusively** from industrial hemp shall be held in quarantine and tested by a licensed testing laboratory **to confirm that its total THC content is 0.3% THC or less on a dry weight basis** before transfer to another licensee or incorporation into a cannabis product. **For purposes of this subsection, “total THC” shall include both tetrahydrocannabinol (THC) and tetrahydrocannabinolic Acid (THCA). For each batch tested, the testing laboratory shall issue a certificate of analysis to report whether the total THC content is below 0.3% THC on a dry weight basis.**

(c) The department shall develop criteria to determine which batches shall be tested. **Except for industrial hemp which is tested upon entry into the licensed market under subsection (b),** ~~all~~ All testing of the samples shall be performed on the final form in which the cannabis, ~~industrial hemp, or cannabis product~~ will be consumed or used.

(d) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

(e) **Except for industrial hemp which is tested upon entry into the licensed market under subsection (b), for** ~~For~~ each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the department with supporting data, to report both of the following:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the department:

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes required by the department in regulation.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).
- (H) Other compounds or contaminants required by the department.

(2) That the presence of contaminants does not exceed the levels established by the department. In establishing the levels, the department shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (c) of Section 26060, and any other relevant sources. For purposes of this paragraph, "contaminants" includes, but is not limited to, all of the following:

- (A) Residual solvent or processing chemicals.
- (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
- (C) Microbiological impurities as identified by the department in regulation.

(D) Any synthetic cannabinoid. To determine whether cannabinoids were produced through synthetic conversion, required testing shall include testing for chemical byproducts typically produced during synthetic conversion but not native to hemp or cannabis plants.

(3) For edible cannabis products, that the milligrams per serving of THC does not exceed 10 milligrams per serving, plus or minus 12 percent. After January 1, 2022, the milligrams of THC per serving shall not deviate from 10 milligrams by more than 10 percent.

(4) Notwithstanding paragraph (3), the department shall establish regulations to adjust testing variances for edible cannabis products that include less than five milligrams of THC in total.

(5) For cannabis products derived exclusively from industrial hemp, that each product does not contain more than 0.5 milligrams of THC. This subsection does not apply to cannabis products derived from both cannabis and industrial hemp which are

produced by a licensed cannabis manufacturer in compliance with Section 26133 of this division.

Section 26110 of the Business and Professions Code is amended to read:

26110. (a) Cannabis, ~~industrial hemp~~, and cannabis product batches are subject to quality assurance standards and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis, industrial hemp, and cannabis products.

(c) The distributor shall store, as determined by the department, the cannabis, ~~industrial hemp~~, and cannabis product batches on the premises of the distributor before testing and continuously until either of the following occurs:

(1) The ~~cannabis~~ batch passes the testing requirements pursuant to this division and is transported to a licensed retailer or to another licensed distributor.

(2) The ~~cannabis~~ batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the department.

(d) Upon entry into the licensed market, the distributor shall store each batch of industrial hemp on the premises of the distributor before testing and continuously until either of the following occurs:

(1) The industrial hemp batch passes the testing requirements pursuant to 26100(b) of this division and is transferred to another licensee or incorporated into a cannabis product.

(2) The industrial hemp batch fails the testing requirements pursuant to 26100(b) of this division and is destroyed.

~~(d)~~ **(e)** The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis, industrial hemp, and cannabis product batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

~~(e)~~ **(f)** Upon issuance of a certificate of analysis by the testing laboratory that the ~~cannabis~~ cannabis, ~~industrial hemp~~, and cannabis product batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the ~~cannabis, industrial hemp~~, and cannabis products conform to the requirements of this division.

~~(f)~~ **(g)** (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the department and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

(2) The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis, ~~industrial hemp~~, and cannabis products conform to the requirements of this division.

(3) The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the department. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the department. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Taxation Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify their accuracy and that they are commensurate with the tax payments.

Section 26133 is added to the Business and Professions Code to read:

(a) A licensed manufacturer shall not incorporate THC or a comparable cannabinoid extracted, separated, or otherwise derived from hemp into cannabis or a cannabis product.

(b) The department shall establish requirements for the disposal of THC or a comparable cannabinoid which is derived from industrial hemp by a licensed manufacturer.

(c) This section does not prohibit a licensed manufacturer from incorporating THC or a comparable cannabinoid derived from cannabis into a cannabis product that also includes cannabinoids derived from industrial hemp.

(d) For purposes of this section, "THC or a comparable cannabinoid" has the same meaning as set forth in Chapter 9 (commencing with Section 111920) of Part 5 of Division 104 of the Health and Safety Code, or any regulations promulgated pursuant to that chapter.

Explanation for Proposed Mock-Up Amendments

BPC 26070.2(b) - amended to prohibit inhalable products derived from hemp, including industrial hemp flower. The current wording of this subsection only prohibits "inhalable cannabis products," which are defined in AB 8 to only include products with concentrated cannabinoids (e.g. inhalable concentrates). Additional language is necessary to address the sale of inhalable raw hemp flower which does not contain concentrated cannabinoids.

BPC 26070.2(c) - amended to prohibit "a product containing any synthetic cannabinoids" rather than "a synthetic cannabis product." This wording is more precise because "synthetic cannabinoids" are defined by AB 8, but "synthetic cannabis products" are not.

BPC 26070.2(c) - amended to strike a reference to "final form industrial hemp products." AB 8 defines products containing concentrated hemp cannabinoids to be "cannabis products," not "hemp products." If all products with concentrated cannabinoids are "cannabis products," there is no conceivable "final form industrial hemp product" unless AB 8 intends to authorize the sale of industrial hemp flower. References to final form industrial hemp products are also struck elsewhere in this mock-up for the same reason.

BPC 26100(b) - amended to require industrial hemp and cannabis products exclusively derived from industrial hemp to be tested specifically for THC content, inclusive of THCa, as soon as it's integrated into the cannabis supply chain. This is necessary to ensure that integrated hemp is truly "hemp" and not THCa flower or non-compliant product.

BPC 26100(c) and (e) - amended to clarify that raw industrial hemp is only subject to testing for THC content under 26100(b), and not other components of required testing. Full compliance testing for pesticides, heavy metals, etc. would still be required once industrial hemp is incorporated into a final form product for sale.

BPC 26100(e)(2)(D) - added to require final form cannabis products to be tested for synthetic cannabinoids, including byproducts typically produced during chemical conversion. Laboratory testing is the only mechanism we're aware of that can effectively enforce restrictions on the derivation of cannabinoids in a final form product.

BPC 26100(e)(5) - added to require cannabis products derived exclusively from industrial hemp (e.g., a hemp product produced in another state which is integrated into the California cannabis market) to contain no more than 0.5 milligrams of THC. Without a quantitative THC threshold for these products, AB 8 contains no restriction on the ability to import high-THC hemp products produced outside the cannabis supply chain into the cannabis market. This section does not establish a THC cap on products derived from both cannabis and hemp which are produced by a licensed California cannabis manufacturer, provided the manufacturer derives any THC in the product exclusively from cannabis in compliance with BPC 26133 (additional new language proposed in this mock-up).

BPC 26100 - amended throughout to strike references to final form industrial hemp products. See 26070.2(c) for rationale.

BPC 26110(d) - added for consistency with 26070.2(b) to require THC testing for raw industrial hemp upon entry into the cannabis supply chain, and to require destruction upon a failed test.

BPC 26133 - adds a new section to BPC to address the extraction of THC from hemp by a licensed cannabis manufacturer.

BPC 26133(a) - prohibits the extraction of naturally-occurring THC from hemp by a licensed cannabis manufacturer.

BPC 26133(b) - requires the DCC to develop requirements for the disposal of THC incidentally produced in the industrial hemp extraction process.

BPC 26133(c) - clarifies that a licensed cannabis manufacturer may incorporate cannabis-derived THC into a product that also contains hemp-derived cannabinoids.

BPC 26133(d) - clarifies that "THC" in this section refers to all THC and comparable cannabinoids.

Appendix - Disparity in Regulation of Hemp and Cannabis Agriculture

AB 8's integration provisions would allow hemp cultivators (not licensed by DCC) to sell hemp biomass, including hemp-derived THC, to cannabis manufacturers for integration into legal cannabis products, as well as allowing final form products derived from hemp THC to enter the licensed cannabis supply chain; and yet these hemp cultivators are regulated to a dramatically lesser degree than DCC-licensed cannabis cultivators growing the same plant for largely the same purposes.

Any proposal to allow the incorporation of hemp biomass into legal cannabis products carries substantial risks for licensed cannabis cultivators. Currently, state law requires that a licensed cannabis manufacturer or distributor must source cannabis (and cannabinoids) exclusively from licensed cannabis cultivators: a closed-loop supply chain that ensures that all cannabinoids in legal cannabis products are derived from the licensed market.

Integration, however, would enable licensed cannabis manufacturers, distributors, and retailers to source cannabinoids and high-THC hemp products from an *unlicensed* entity: a hemp cultivator or product manufacturer who is not required to obtain any licensure with the Department of Cannabis Control.

Cannabis cultivators regulated under the DCC are exponentially more highly regulated than CDFA-regulated hemp cultivators. A 2023 DCC report on hemp integration¹⁵ discusses this dynamic in detail:

*“Licensed cannabis cultivators are subject to more extensive statutory and regulatory requirements at the state level compared to hemp cultivators... licensed cannabis cultivators are subject to a far more rigorous regulatory system that is confined to California; thus, Department licensees may only conduct business with other Department licensees. Regulatory provisions span from requirements about what must and must not be incorporated into a licensed cannabis premises, the size of canopy, cultivation practices including allowable uses of pesticides, and robust laboratory testing for numerous contaminants and substances that can negatively impact human health. The use of a licensed distributor is required for quality assurance review and transportation of cannabis, and outputs may only be sold to consumers by state licensed retailers who are restricted to selling cannabis, cannabis products, cannabis accessories, and branded merchandise. Commercial cannabis license fees are typically higher than those for hemp, and cannabis is subject to taxes inapplicable to hemp. (See Cal. Code Regs., tit. 3, § 4900, et seq and tit. 4, § 15000, et seq.). **The cost of cultivating cannabis is therefore generally significantly higher than the cost of cultivating hemp.**”*

¹⁵ https://cannabis.ca.gov/wp-content/uploads/sites/2/2024/02/dcc_hemp_report_2023.pdf

We provide the table below to further summarize some of the relevant differences between the regulation of “hemp” and “cannabis” cultivation:

Regulatory Area	Hemp Cultivation	Cannabis Cultivation
Regulating agency	CDFA	DCC
Annual licensing fee	\$900 regardless of size	\$4,820 annually for a quarter-acre outdoor farm; \$13,000 annually for a one-acre outdoor farm; greater fees for larger farms or indoor production methods
Federal Legal Status	Federally legal – greater access to banking, insurance, and CDFA and USDA agricultural support programs	Federally illegal – restricted or no access to banking, insurance, CDFA and USDA agricultural support programs
Local land use and CEQA	Legally classified as agriculture and can be directly incorporated under existing local land use designations	Not legally classified as agriculture and subject to expensive site-specific CEQA review and mitigations for each “project”
Local taxation	Not subject to local taxation in any jurisdiction	Subject to local taxation in most jurisdictions
Water policy	Same as other agriculture	Prohibited from streamflow diversions during summer forbearance period, even with a water right that would enable diversions for non-cannabis crops; annual water quality and discharge fees often in the thousands of dollars
Regulatory requirements	Single pre-harvest test to ensure plants don’t exceed allowable THC content	Compliance with on-farm track and trace; detailed site map must be approved by DCC (and typically local government), with additional pre-approval for any site changes; frequent inspections from local government, DCC, and CDFW; required surety bond
Transportation of product	Legal without additional licensure	Requires separate DCC distribution license
Market access	Nationwide market access in any state where hemp sales are legal	Limited to licensed California cannabis supply chain only

Notably, the current trajectory of DCC cannabis cultivation regulations is to make the disparity between cannabis and hemp *more*, rather than less, severe.

On March 14, DCC formally proposed regulations on cannabis cultivators that would impose new requirements for on-farm sanitation, with a public comment period closing April 28.¹⁶ Our analysis of the proposed regulations has found the proposed standards on cannabis cultivators are unusually specific, narrow, and prescriptive compared to other agricultural contexts.¹⁷ Further, our analysis finds that hemp cultivators are currently not subject to *any* on-farm sanitation standards under state or federal law, nor are they proposed to become subject to any such standards.

We see no conceivable defense for a simultaneous claim that 1) DCC-regulated cannabis cultivators must be held to exceptional on-farm sanitation regulations to ensure safe products for consumers, while 2) hemp cultivators based anywhere in the U.S. can be held to *no* on-farm sanitation standard, have their products integrated into the same cannabis supply chain, and yet pose no meaningful risks for consumers.

The potential for cannabis cultivators to be held to exceptional standards for sanitation, while hemp cultivators exempt from these standards are enabled to sell their products within the licensed cannabis market, exemplifies the systematic double standards in the regulatory approach to hemp and cannabis cultivation.

For the reasons identified above, we are opposed to AB 8 unless amended to disallow the integration of intoxicating hemp products and cannabinoids into the cannabis supply chain, and look forward to working with your office to address these concerns.

Sincerely,



Genine Coleman
Executive Director
Origins Council



Natalynne DeLapp
Executive Director
Humboldt County Growers Alliance



Oliver Bates
President
Big Sur Farmers Association



Vince Scholten
President
Hessel Farmers Grange



Steve Amato
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Mendocino Cannabis Alliance



Adrien Keys
President
Trinity County Agricultural Alliance

¹⁶ <https://cannabis.ca.gov/cannabis-laws/rulemaking/cultivation-updates-sanitation-standards/>

¹⁷ <https://drive.google.com/file/d/19zt9goo-MtiTWY61Bu8aA5haB3TSysU7/view>

Dustin Gibbens

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Board Member
Sonoma County Cannabis Alliance