

Synthetically-Derived Intoxicating Hemp and THC Products – Where are we with them?

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In the olden days of weed and hemp

“Old Fashioned” Hemp plants

Grown for fiber and seed oil.

Industrial hemp – sourced from a low-resin agricultural crop.

“Old Fashioned” Drug plants

Include euphoric THC-rich plants and non-euphoric CBD-rich plants.

High-resin horticultural crop, hand-harvested, dried, trimmed and cured.

Fewer and fewer differences between the two.

Really depends on amount of THC.



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HEMP IS THE STRONGEST NATURAL FIBRE IN THE WORLD.

IT'S KNOWN TO HAVE OVER 50,000 DIFFERENT USES!

TEXTILES

- Clothing
- Diapers
- Handbags
- Denim
- Shoes
- Fine Fabrics

INDUSTRIAL TEXTILES

- Rope
- Canvas
- Tarps
- Carpeting
- Netting
- Caulking
- Moulded Parts

PAPER

- Printing
- Newsprint
- Cardboard
- Packaging

FOODS

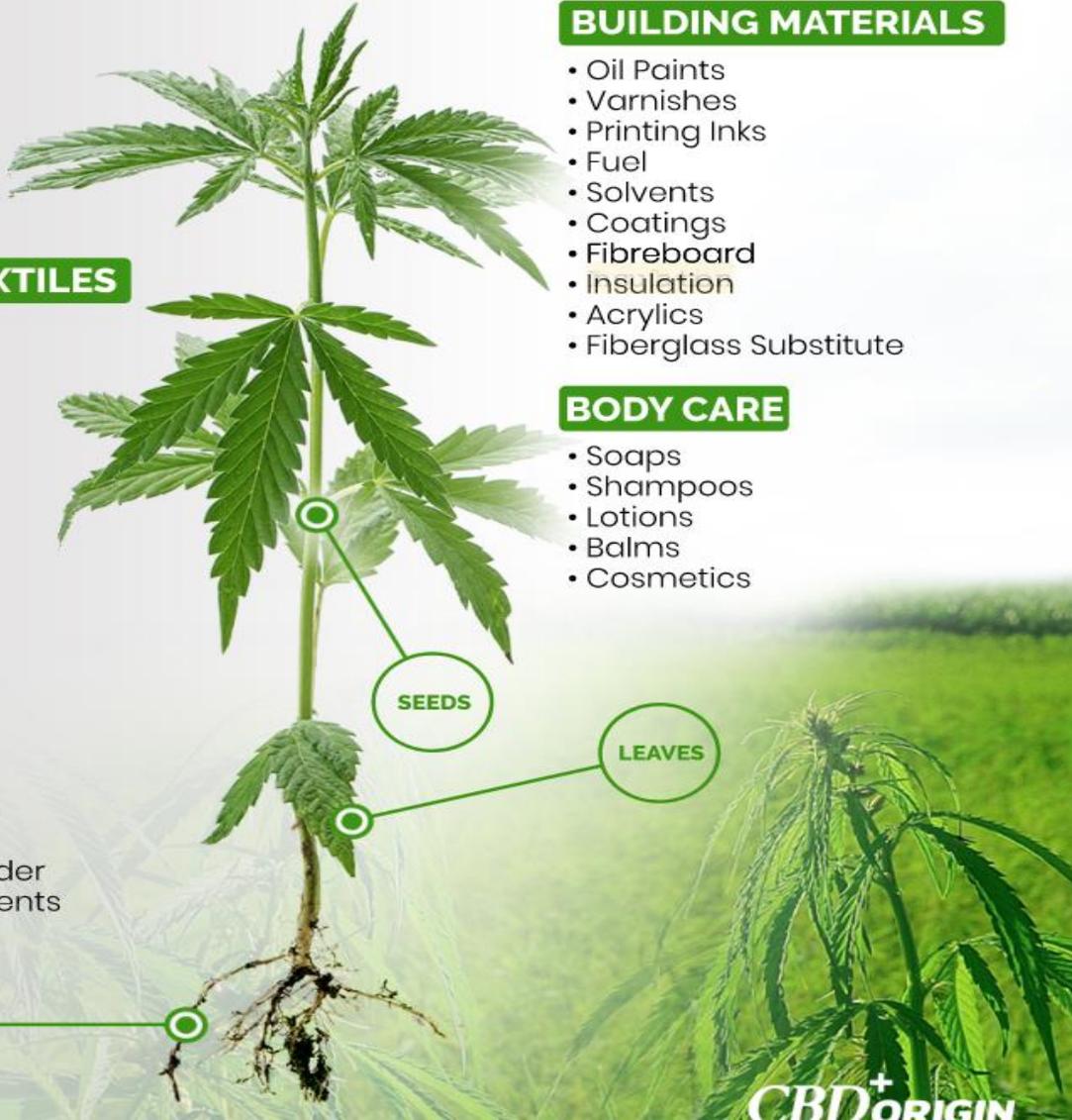
- Hemp Seed Hearts
- Hemp Seed Oil
- Hemp Protein Powder
- EFA Food Supplements

BUILDING MATERIALS

- Oil Paints
- Varnishes
- Printing Inks
- Fuel
- Solvents
- Coatings
- Fibreboard
- Insulation
- Acrylics
- Fiberglass Substitute

BODY CARE

- Soaps
- Shampoos
- Lotions
- Balms
- Cosmetics



ROOTS

SEEDS

LEAVES

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CBD+ ORIGIN

The Farm Act (2018)

Removes **hemp** from the definition of **marijuana** in the Controlled Substances Act (CSA).

Definition of **hemp**: “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all **derivatives**, extracts, cannabinoids, **isomers**, acids, salts, and salts of isomers, whether growing or not, **with a delta-9** concentration of not more than 0.3 percent on a dry weight basis.”

Plain language – all products that are **sourced** from the Cannabis plant, contain **not more than 0.3 percent delta-9 THC**, and are a derivative, extract, cannabinoid, or one of the other terms in the definition of hemp.

Started seeing these products after the Farm Act passed.



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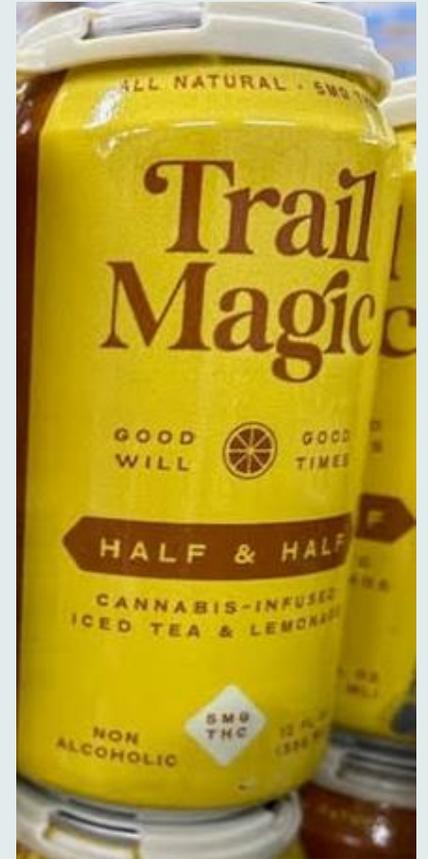
What is Delta-8, 10, etc?

- One of the more than 100 cannabinoids produced in the Cannabis sativa L. plant.
- An “isomer” of Delta-9.
 - Same atoms but arranged differently.
 - Found naturally, but in **miniscule** amounts.
 - No Delta-8 product is naturally extracted. They are produced **synthetically** in labs.
- To produce Delta-8 naturally with the necessary isolation and purification required you would need to process about 55,000 kilos (app. **122,000** lbs.) of hemp to produce one kilo (app. **2.2** lbs.) of natural Delta-8. Cost would be about **\$22 million**.
- “Calling commercial Delta-8 THC a ‘hemp-derived’ or a ‘natural’ product is the equivalent of calling codeine a ‘poppy-derived, natural’ herbal supplement.
- Available in candy, cookies, chips, gummies, vapes, dabs, shatter, smokable hemp sprayed with delta-8 THC extract, distillate, tinctures, and infused beverages.



Hemp-Derived Intoxicating Products

Products Found in MA Stores





MA bans the sale of all flavored tobacco products

Definition of tobacco products includes:

“electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization **regardless of nicotine content in the product.**”

All flavored vapes are now covered by MA law.

Risks of Delta-8 (etc.) Isomer Products

We Don't Know What's in Them

CCC's private, independent lab tested thousands of synthetic isomer products and found acetic acid and 15 – 30 unknown contaminants, as well as acetic acid.

“Frankenstein-like chemical components”

No required certification for evaluating contaminants.

High Potency and Intoxicating

While Delta-8 and Delta-10 THC are less intoxicating than Delta-9 THC, product labels indicate **much higher amounts of Delta-8** and Delta-10 per serving.

Example: Synthetic gummies are labeled as having **50mg** of synthetic THC per serving compared with the legal cannabis product with a maximum of **10mg** of Delta-9 per serving.

Widely Available and Attractive to Youth

NO Age Restrictions

Product offerings include gummies, candy and drinks

Perception of safety given legal sale



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Risks of Delta-9 Isomer Products, cont.



- Adverse effects reported by FDA:
 - Hallucinations, vomiting, tremor, anxiety, dizziness, confusion, loss of consciousness.
- Severe toxicity has been associated with changes in heart rate, low blood pressure, difficulty breathing, and coma.
- National Poison Control Center Delta-8 data*:
 - 2,362 calls to Poison Control for Delta-8 Exposure in ~12 months
 - 40% Accidental Exposure; 82% were youth
 - 70% Required Evaluation at Healthcare Facility
 - 8% Admitted to Critical Care Unit



*see: <https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc>

PRODUCT CATEGORIES

- CBD Products
- Delta-8 Products
- Delta-9 THC Products
- Delta-10 THC Products
- Delta-11 Products
- HHC Products
- HHC-O Products
- HHC-P Products
- Mushroom Supplements
- PHC Products
- THC-B Products
- THC-H Products
- THC-JD Products
- THC-O Products
- THC-P Products
- THC-V Products
- Edibles



★★★★★ 5 Reviews

Nerdy Bears Delta 8 Gummies | 420mg

\$20.00

- 2018 Farm Bill Compliant
- 105mg Delta-8 THC and CBD Per Gummy
- 420mg Delta-8 THC And CBD Per Bag
- Assorted Flavors
- Extremely Potent

Availability: 349 in stock

Purchase now to earn 100 Loyalty Points!

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ADD TO CART

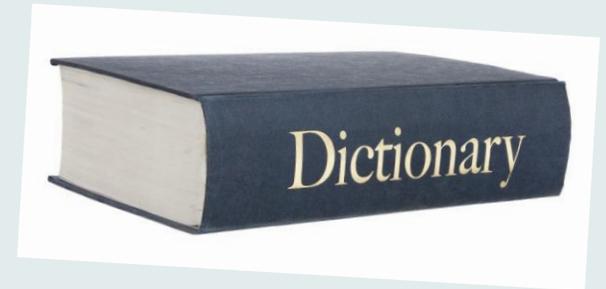
SECURE CHECKOUT POWERED BY: Bolt

Categories: Delta 8 Gummies, Delta-8 Products, Edibles

Brand: Nerdy Bears

Legal Landscape - How Did We Get Here?

- **Federal definition of Hemp:** The plant Cannabis and any part of that plant, including all derivatives, extracts, cannabinoids, isomers . . . **with a delta-9 concentration of not more than 0.3 %.**
- **Industry claims their products are legal because:**
 - They are hemp-derived; and
 - have less than 0.3% of delta-9.
- Even when the product is **intoxicating**, created in a lab using **unknown components and solvents**, has **no certification process** for testing contaminants, **no labeling requirements**, and **no age-restriction**.
- AK Futures, LLC v. Boyd Street Distro, LLC (9th Cir.)
 - “Regardless of the wisdom of legalizing delta-8 THC products, this Court will not substitute its own policy judgement for that of Congress... **If [the defendant] is correct and Congress inadvertently created a loophole legalizing vaping products containing delta-8 THC, then it is for Congress to fix its mistake.”**
- **Not controlling in MA**



Industry claims there is
a legal loophole



KIRKLAND AND GLOBE STAFF
'Your regulation is only as good as your ability to enforce it.'

CHERYL SBARRA, executive director of the Massachusetts Association of Health Boards



PHOTOS BY JOHN TLUMACKI/GLOBE STAFF

at Trade Roots, a Wareham cannabis company, workers face strict rules. It's a different story for makers of hemp-derived products.

LOOPHOLES PUT A DANGEROUS HIGH IN TEENS' HANDS



Unlike highly regulated cannabis, hemp-based delta-8 is in a legal gray area

By Adam Piore
GLOBE STAFF

It's Catherine Dhingra's job to worry about the youth of Wakefield.

So in late January, when the town's prevention, outreach, and youth services manager heard from a colleague about an uptick in kids showing up to school so high th

sold in local vape shops," she said. "Throughout our region, youth are talking about it."

Although she and others didn't know the exact intoxicants involved, she had learned enough about delta-8 on her own that she sent an email to a group of concerned volunteers, col-

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But This Loophole Does Not Exist!

The Federal Controlled Substance Act and MA Controlled Substance Act:

- **DEA:** All synthetically derived THC remain schedule I controlled substances, regardless Delta-9 THC content.
- **MA CSA (G.L. c. 94C)** incorporates DEA Scheduling.
- These products are **ILLEGAL**, and it is a **CRIME** to sell them because they are **controlled substances**.

State Hemp Law and Food Code:

- **DPH/MDAR Joint Guidance issued May 29th.** Thank you!
- Hemp-derived Delta-8 and other synthetic THC may not be sold in retail locations in MA pursuant to hemp law, food code and federal and MA Controlled Substance Act.
- CBD and THC are not allowed in food and beverages sold in MA.

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To: Local Boards of Health and DPH-licensed or Inspected Facilities

From: Massachusetts Department of Public Health and the Massachusetts Department of Agricultural Resources

Date: May 29, 2024

RE: Hemp Derived CBD and THC Not Allowed in Food and Beverages Manufactured or Sold in Massachusetts pursuant to 105 CMR 500.00: *Good Manufacturing Practices for Food* and 105 CMR 590.00: *Minimum Sanitation Standards for Food Establishments*

In order to address questions regarding the recent influx of products manufactured or sold in Massachusetts containing cannabidiol (CDB) and/or delta-8-tetrahydrocannabinol¹ and/or delta-9-tetrahydrocannabinol (THC), the Massachusetts Department of Public Health (DPH) and the Massachusetts Department of Agricultural Resources (MDAR) issue the following Frequently Asked Questions to make clear that addition of CBD and/or THC to food manufactured or sold in Massachusetts is illegal. This does not apply to edible marijuana products licensed and sold under the jurisdiction of the Cannabis Control Commission.

The Cannabis Control Commission and Marijuana Products

In Massachusetts, marijuana and edible marijuana products are regulated by the Cannabis Control Commission (CCC). This notice does not apply to marijuana products manufactured under the



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150*

**ALCOHOLIC BEVERAGES CONTROL COMMISSION (“ABCC”) ADVISORY
REGARDING FOOD AND BEVERAGES CONTAINING HEMP DERIVED CBD
AND/OR THC ON LICENSED PREMISES**

On May 29, 2024, the Massachusetts Department of Public Health and the Massachusetts Department of Agricultural Resources issued a joint notice regarding food and beverages containing hemp derived CBD and/or THC. A copy of the notice can be found attached.

Please be advised that it is unlawful to manufacture and/or sell food or beverages containing hemp derived CBD and/or THC. This applies to alcoholic and non-alcoholic beverages. These products must be taken off the shelf immediately. Any licensee found in violation of importing, manufacturing, transporting, selling, and/or possessing on its licensed premises food and/or beverages containing hemp derived CBD and/or THC faces potential suspension or revocation of its license. Wholesalers must retrieve all food and beverages containing hemp derived CBD and/or THC sold and/or delivered by them to retail licensed premises at or before their next delivery to each establishment. This Advisory does not apply to marijuana products manufactured under the jurisdiction of the Cannabis Control Commission.

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law.

Questions concerning food and beverages containing hemp derived CBD and/or THC may be

But who enforces and how?

- Retailers who only sell shelf-stable food are in a grey area for enforcement.
- Do not need a food service permit under state food code.
 - Specialty stores like head shops.
- MDAR's website states that MDAR does not enforce in retail stores, and they have no applicable enforcement arm.
- Local health can likely enforce under nuisance or food adulteration laws.
 - Burdensome on local boards of health.

Products Sold at Retail	Required Permit	Enforcement Body
Food establishments	Retail Food Code	Local Health
Tobacco retailers	Tobacco Regulation	Local Health
Alcohol	Liquor License	Liquor Board/ABCC
Shelf-Stable Food Only (Twinkies and Coke)	Embargo, nuisance	Local Health?

Where does this leave us?

- **Local health regulations.**
 - **Resource constraints and enforcement inconsistency** between municipalities with and without regulations
- **MDAR, DPH and ABCC will need to continue collaborating including:**
 - Issuing further guidance and protocols on enforcement in ‘grey area’ locations
 - Ensuring that each state agency consistently enforces under the full extent of their authority
- **Explore other avenues to address synthetically-derived THC/CBD products:**
 - Engagement with law enforcement
 - Possible AG action for online sales or against larger manufacturers/distributors
 - CCC lab testing support.



Questions and Comments

The background is a vibrant teal color. It is filled with numerous speech bubbles of various colors, including shades of brown, light blue, and lime green. Each speech bubble contains a dark teal question mark. The bubbles are scattered across the page, some overlapping each other. There are also several large, abstract, organic shapes in a darker teal color that appear to be cutouts or layered on top of the speech bubbles.