

The U.S. Hemp Roundtable (USHRT) is strongly opposed to the sale of intoxicating products sold under the guise of hemp, and has led the charge against the unregulated retail sale of such products throughout the country and at the federal level. We also support robust regulation of hemp products and have worked closely alongside to regulators to develop comprehensive laws and regulations governing them.

While we support the overarching goals of SB 22–205, the current draft is deeply flawed and threatens Colorado’s hemp industry – a large employer in the state – due especially to its harmful impact on the sale of non-intoxicating full spectrum hemp products. The following principles must be incorporated into any legislative draft to ensure prevent overreach and protect the sale of non-intoxicating hemp products.

UPON LEGISLATIVE ENACTMENT

- Upon the bill’s enactment, law enforcement would have the authority to immediately enforce against both retail and online sales of hemp products that contain substantially more than 2.0 mg of delta-9 THC per serving, as well as other products that are likely to cause intoxication or are marketed as intoxicating, such as delta-8 and delta-10 THC.
 - Given the wide variety of product types, and the absence of evidence of abuse of multi-serving tincture and capsule products, we oppose the implementation of container limits at this juncture.
 - However, to prevent misuse of serving size limits, we propose that “serving size” be defined based on the amount of a product that is customarily consumed, i.e., a single capsule, gummy, or tablet; 1 unit of a food or beverage; or using a common household measure that is appropriate to the product (2 droppers/2 ml).
- Rather than criminal penalties, USHRT supports the imposition of reasonable civil penalties for violations of these limits, while regulators engage in a rulemaking process to establish permanent restrictions on intoxicating hemp products.
- While we support enforcement against the retail or online sale of products that may exceed statutory limits for delta-9 THC, Colorado manufacturers must be permitted to manufacture, store, distribute, and sell hemp products above these limits into other states where they are legal. Further, in-process hemp extracts and ingredients that are not intended to be sold as finished products should be exempt from the statutory restrictions.
- We support additional funding to law enforcement to target online sellers of intoxicating hemp products, thereby leveling the playing field for Colorado hemp companies.

LONG TERM POLICY

- This legislation should additionally require the Colorado Department of Public and Environment (CDPHE) and the Marijuana Enforcement Division (MED) to work together on a stakeholder-driven rulemaking process that utilizes science-based standards to determine what hemp products should be designated as intoxicating into the long term. The process should include sufficient guardrails to ensure a clear separation between hemp and marijuana products, and most importantly protect consumers, particularly children, from intoxicating products.
 - The lead agency should be instructed to set product-specific limits for intoxicating compound in hemp products, which may include milligram limits, restrictions on

- product forms, ratio of THC to other cannabinoids, and potentially other measures of intoxication.
- This limit-setting process must be based in science and consider the following intoxication criteria:
 - Whether the compound possesses significant brain cannabinoid receptor (CB1) agonist activity as demonstrable by a binding affinity (K_i) greater or equal to 50% receptor occupancy to CB1 receptors *and* activation of G protein signaling greater or equal to EC50 for signal transduction activation at less than at less than 200 nM, and
 - Results in positive effects for all four (4) components, analgesia, catalepsy, hypothermia, and decreased locomotor activity, of the Tetrad Test intravenously administered in rodents, which are reversible by rimonabant (CAS 168273-06-1).
 - Once the limits and/or restrictions are set in regulation, products in violation of the regulation could not be sold at retail in Colorado. However, a process must be established to allow a company to sell products that may be categorized as intoxicating as defined above in the limit-setting process, upon a demonstration of safety to the lead agency that considers one or more of the following mechanisms:
 - A New Dietary Ingredient Notification (NDIN);
 - Self-Affirmation of Generally Recognized as Safe (GRAS) status, or a GRAS notification;
 - Third-party certification, from an organization approved by the lead agency, that assures the utilization of good manufacturing practices.
 - The rulemaking must include a reasonable grace period of 180 days from the time of adoption to enforcement to allow hemp companies to sell through existing inventory and allow sufficient time for re-formulation and re-packaging.
 - Colorado manufacturers would still be permitted to manufacture, store, distribute and sell hemp products that are legal in states other than Colorado.