

Minor Cannabinoids

BY MONA ZHANG AND TARA GNEWIKOW | 02/07/2023 05:00:00 AM EST

PRO POINTS

- **When Congress legalized hemp in 2018, it did not intend to unleash an unregulated market of intoxicating cannabinoids** – compounds that can be derived from cannabis but also chemically synthesized.
- **The boom and bust of the CBD market has led some producers to convert CBD into intoxicating cannabinoids** that are sold as hemp without any sort of regulatory oversight.
- **Nascent research into some of these compounds suggests they can be even more potent than Delta-9 THC**, the psychoactive ingredient in marijuana.
- **Both hemp and marijuana industry advocates fear the proliferation of artificial cannabinoids is a looming public health crisis** the federal government needs to address – and one that could lead to a backlash against legitimate businesses.

HOW WE GOT HERE

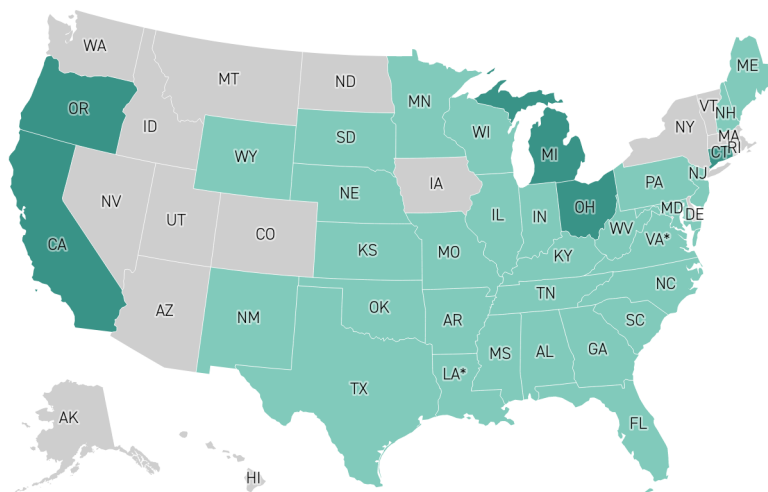
The average cannabis plant contains more than 100 “[cannabinoids](#)” – compounds that are responsible for the medical and psychoactive effects of cannabis – while a seemingly endless array can be synthesized in a lab. But for decades, the cannabinoid at the center of the weed world was Delta-9 THC, the main intoxicating compound in marijuana. In recent years, the industry has started to turn its focus to CBD for medical applications, particularly after Congress legalized hemp in 2018.

States that have established marijuana markets have also put more attention on the potential benefits of some minor cannabinoids like CBG (for inflammation) and CBN (for insomnia). However, the federal legalization of hemp in the 2018 farm bill sparked a boom in the business of deceptively marketing intoxicating cannabinoids as hemp.

Artificial cannabinoids legal in over half of U.S. states

Legal status and regulation of artificial cannabinoids

Legal and regulated Legal and unregulated Illegal



*In Louisiana and Virginia, artificial cannabinoid products are legal and unregulated, but certain product types are banned.

Source: POLITICO analysis of state laws
Tara Gnewikow/POLITICO

The unregulated market of products posing as hemp includes Delta-8 THC – the best known of the artificial cannabinoids – but has also expanded to include an array of THC isomers and other psychoactive compounds, such as THC-O, THC-P and HHC. Not only are these products believed to pose similar health risks as those derived from

Delta-8 THC because they are synthesized from CBD through a simple chemical conversion, some have never been studied in humans. One test-tube [study found that THC-P was 30 times more potent](#) than Delta-9 THC.

Consumers can purchase potent intoxicating cannabinoids online that have THC levels far higher than state-regulated marijuana products. Some advocates for the marijuana and hemp industries alike are increasingly warning state and federal regulators about the proliferation of these products.

WHAT'S NEXT

The 2023 farm bill could have serious effects on the market for intoxicating cannabinoids as some industry advocates are hoping to close the loophole. Congress must pass the bill by Sept. 30, but lawmakers can pass a stopgap funding measure if negotiations continue past the deadline, as they did for the 2018 farm bill.

The FDA [last month declined calls to regulate CBD](#) like dietary supplements or food additives. The agency called on Congress to help it develop a new regulatory pathway for cannabinoid products, describing CBD as too risky to simply follow the agency's existing rules. But getting the right language through Congress and developing a new FDA regulatory framework is a lengthy process — one that the industry says it can't wait for, particularly as it confronts the proliferation of unregulated, intoxicating cannabinoids.

POWER PLAYERS

- **Rep. Chellie Pingree:** The Democratic congresswoman introduced a bill last session that aimed to close the loophole for intoxicating cannabinoids being marketed as hemp. The proposal would set limits on hemp based on "total THC" rather than Delta-9 THC and also prohibit interstate commerce of synthesized cannabinoids. Pingree, who sits on the House Agriculture Committee, said she hoped to include the language in the 2023 farm bill.
- **Norman Birenbaum:** The FDA appointed Birenbaum the senior public health adviser at the agency's Center for Regulatory Programs in September. With Birenbaum's past experience regulating state cannabis programs, the move signaled a shift in how the FDA plans to address cannabis issues more generally. But in January, the agency punted the issue of hemp cannabinoid regulation to Congress.
- **U.S. Hemp Roundtable:** The industry trade organization has been a vocal proponent of the hemp industry as well as an outspoken opponent of the burgeoning market for intoxicating cannabinoids being marketed as hemp. The group pushed hemp as a non-intoxicating product when it advocated its legalization through the 2018 farm bill. They fear that intoxicating products will not only damage the reputation of responsible operators, but lead to a public health crisis.
- **Oregon Liquor and Cannabis Commission:** The Oregon Legislature tasked its marijuana regulatory agency with addressing the market for intoxicating hemp products in 2021. Agriculture departments typically oversee state hemp programs but are not equipped, as marijuana regulators are, to deal with intoxicating compounds. The agency is one of the early state-level leaders in trying to tackle the public health issue, particularly as the market threatened to compete with licensed marijuana businesses.
- **California Cannabis Industry Association:** The state cannabis trade group is sounding the alarm on the booming market for unregulated, intoxicating cannabinoids, as producers can sidestep onerous marijuana regulations while still selling products that get people high. In a white paper published in the fall, the trade group pulled together the existing (though still nascent) research on some of the more obscure compounds with questionable safety.