

# kightlaw

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September 12, 2024

US Hemp Authority  
Attn. Jonathan Miller  
Attn. Brook Parker Robertson  
Sent via email: [jmiller@fbtlaw.com](mailto:jmiller@fbtlaw.com), [brobertson@fbtlaw.com](mailto:brobertson@fbtlaw.com)

*Re: USHA Comments*

Dear Jonathan and Brook,

I read all of the comments to the USHA Adult Use Certification Program and, in conjunction with my friend, ChatGPT, organized them into categories and suggestions. They are attached as Exhibit A. I used those suggestions to redline the original program draft, which I attached to the email. I hope this is helpful.

Based on the review, I believe that the most important issues which the USHA can and should address are: (a) bolstering the importance of age-verification, and (b) requiring third-party potency and purity testing by accredited labs. With respect to access by minors, I did some online research and our proposal is sound; however, I learned that there is a distinction made between “age-gating” and “age-verification”, with the latter being focused on multi-step processes to confirm the age of the buyer. This is what we propose, but we used the term “age gating”. I changed all references to “age-gating” to “age-verification”. With respect to lab testing, I left it short so that people with more knowledge in this field can propose proper language.

Although there were several labeling/packaging related comments, the current proposal is sufficiently robust.

Additionally, I think that we should give a “shout out” of sorts to the need for federal regulations so that the industry moves away from the “patchwork” of state-level regulations (and restrictions). I added a sentence to that effect.

Finally, several commenters said that limiting the program to products that contain D8 and D9 was too restrictive and thought that it should be opened to other cannabinoids, such as D10 and HHC. I did not update the document to include these, but I made a side-comment on the document and think it is worth raising this issue to the committee.

There were several comments that we are unable to address, such as monopolization and competition from large companies, opposition to D8 and D9 generally, etc. I did not address these issues.

Please let me know if I can be of further assistance.

Sincerely,



Rod Kight

## EXHIBIT A

To organize and prioritize the public comments about the proposed USHA Adult Use Certification Program, the feedback is categorized into key themes that highlight the most significant issues based on the volume of comments, their relevance, and their substantive content.

### Categories of Comments:

#### 1. Regulation and Safety (14 comments)

- Many comments emphasize the need for regulations that ensure product safety and limit access to minors.
- Specific suggestions include age verification, adherence to proper labeling, and the importance of third-party testing.
- Examples:
  - Timothy Schacht: Emphasizes the need for federal regulation to protect health and safety.
  - Edward Forgey: Concerns about unmonitored Delta 8 products.
  - Mark E Plum: Suggests stricter age verification methods and certification protocols.
  - Nate Decker: Supports adult-use certification for better labeling and compliance.

#### 2. Product Labeling and Cannabinoid Compliance (10 comments)

- Comments here focus on ensuring that labels are accurate, consistent, and comply with state regulations, especially regarding cannabinoids like Delta-8 and Delta-9.
- Specific concerns include the inclusion/exclusion of certain cannabinoids in the certification program.
- Examples:
  - Bennett Christian: Proposes clearer state-level labeling requirements.
  - Thomas Bobrowicz: Questions the restriction to only Delta-8 and Delta-9 in the program.

#### 3. Market Competition and Monopolization (6 comments)

- Several comments warn about the potential monopolization of the hemp industry by large corporations or government policies that may disadvantage small businesses.
- Examples:
  - Fit2Grid: Criticizes an alliance between regulators and large companies, which might harm small businesses.
  - Heidi Sarno: Raises concerns about smoke shops lacking proper education on hemp products.

#### 4. Support for Federal Regulation (8 comments)

- Many commenters advocate for consistent federal regulations to protect consumers and ensure a level playing field for businesses.
- Examples:

- Christopher Fox: Supports federal regulation of intoxicating hemp products.
- Jon Yarian: Advocates for federal regulation to secure the industry’s future.

**5. Hemp Industry Protection (8 comments)**

- Some commenters express concern that overly strict regulations could harm the hemp industry, especially small businesses and farmers.
- Examples:
  - Vicky Bohning: Warns about bad actors harming the industry and advocates for compliance that doesn’t burden farmers.
  - Lacie Navin: Criticizes overregulation that may shut down businesses unfairly.

**6. Consumer Access to Products (7 comments)**

- This category includes comments from consumers who rely on hemp products for medicinal purposes and are concerned about potential restrictions on access.
- Examples:
  - Deborah Hawley: Emphasizes the benefits of hemp for medicinal use.
  - Carol Kimball: Advocates for maintaining consumer access to hemp products without overly restrictive regulations.

**7. Environmental and Health Concerns (4 comments)**

- These comments touch on biosecurity, product safety, and concerns about mixing natural products with synthetic chemicals.
- Example:
  - Rev. Dr. Denise Elizabeth Hall: Raises concerns about biosecurity and the need for strict safety protocols.

**8. Opposition to Delta-8 and Delta-9 THC (4 comments)**

- A few comments express opposition to Delta-8 and Delta-9 THC products, citing safety concerns.
- Example:
  - Edward Forgey: Advocates for restricting Delta-8, stating it is unnecessary.

**Prioritization of Categories:**

1. **Regulation and Safety** – This category has the highest volume of comments and the most substantive suggestions. Ensuring product safety, especially for intoxicating products, and keeping these out of children’s hands are critical to public health and regulatory compliance.
2. **Product Labeling and Cannabinoid Compliance** – Accurate labeling and clear regulations around cannabinoids like Delta-8 and Delta-9 are essential for consumer trust and regulatory clarity.
3. **Support for Federal Regulation** – Comments calling for federal regulation reflect a consensus on the need for a unified approach to ensure industry standards and protect consumers nationwide.

4. **Market Competition and Monopolization** – Ensuring that the certification process does not unfairly benefit large corporations over small businesses is an important issue for maintaining industry diversity and fairness.
5. **Hemp Industry Protection** – This category focuses on balancing regulation with the need to protect small businesses and farmers, ensuring they can compete and succeed.
6. **Consumer Access to Products** – Protecting consumer access, especially for medicinal use, is vital for public support of hemp regulation.
7. **Environmental and Health Concerns** – These issues, while important, are more niche but warrant attention for maintaining product safety and environmental responsibility.
8. **Opposition to Delta-8 and Delta-9 THC** – This is a smaller subset of comments but raises valid safety concerns, especially regarding the unregulated use of these products.