

**Testimony Neither For Nor Against**

**L.D. 1920**

**An Act to Prohibit the Sale of Potentially Intoxicating Hemp Products to a Person Under 21 Years of Age**

*Before the Joint Standing Committee on Agriculture, Conservation and Forestry*

May 15, 2025

Senator Talbot Ross, Representative Pluecker, and members of the Joint Standing Committee On Agriculture, Conservation and Forestry.

My name is Mark Gallagher. I am here to testify neither for nor against L.D. 1920 on behalf of the Cannabis Association of Maine (CannabisME).

While this bill has been presented as emergency legislation to address a public health concern, the limited regulations are insufficient to protect public health and do not align with best practices across the country. Further, the lack of a framework for oversight makes it unlikely that the safeguards that are included in this legislation—critically important age gates and packaging requirements—will be consistently implemented.

We urge the Committee to put a moratorium in place instead of passing the legislation as drafted, and then work to develop the most effective way to regulate hemp-derived products that will protect public health and safety for all consumers in addition to preventing the sale of such products to minors.

I attached to my testimony an article published earlier this week in the Bangor Daily News, “The unregulated and potent hemp products on Maine shelves,” and also included photos taken recently at Cumberland Farms in Lewiston. As you can see from the photos, there are displays of THC beverages and gummies directly next to the point of sale in a store where individuals of any age can buy products. These products are not identified as hemp-derived and, while they contain 100 mg of THC, they provide no warning to the consumer that they are intoxicating.

There is no question that the unregulated production and sale of intoxicating hemp products in Maine creates a significant public health and safety issue that must be addressed. However, such legislation should include the same robust testing, tracking, packaging, and labeling requirements for intoxicating hemp products that we have for adult use cannabis, as these products—which are both produced from delta-9 THC and other cannabinoids derived from the plant *Cannabis Sativa* L.—are no different. See attached, Closing the Loophole on Hemp Derived Cannabis Products, the National Institute of Health (Nov. 22, 2022). That is why most states that have legalized cannabis run intoxicating hemp products through their existing cannabis programs, where the necessary standards and regulatory authorities to protect the public already exist.

We have four primary concerns with the bill that we wanted to bring to the Committee's attention, as the unintended consequences of passing this legislation would be significant.

**First**, critically important to preventing minor access to these products is regulation and enforcement. While the bill imposes an age gate on the sale of intoxicating hemp products, the bill does not identify which agency would be charged with enforcing the age gate. Nor does it identify or give an agency the authority to establish penalties for selling intoxicating hemp products to minors or failing to package the products in child resistant packaging. Further, it does not require a label that would identify the product to the consumer, retailer, or regulator as being an intoxicating hemp product, making it difficult for a retailer to implement the age gate, and a regulator, if one was identified, to enforce the requirement.

**Second**, the bill does not cap the THC content of hemp products. The legislation imposes age gates for certain products, but that is all. This does not comport with best regulatory practices and would make Maine an outlier among New England states (which either ban the production and sale of hemp products that contain THC or cap the THC content of hemp products between **1mg and 1.5mg of THC for edibles** and **between 1mg and 3mg of THC for beverages**). Each of the New England states that allows for the production and sale of hemp products with a capped THC content, allow for the production and sale of hemp products containing higher THC contents through the state cannabis markets. Likewise, Maine could cap the THC in hemp products produced and sold outside the state cannabis program and, if companies want to manufacture and sell high THC products in Maine, they could get either a medical or an adult use cannabis license to produce and sell such products.

**Third**, there is no testing requirement. Unlike, for example, seltzer water, hemp products are made from extracts from hemp plants. If these plants are grown in soils containing heavy metals (arsenic, for example) or are treated with pesticides, those harmful substances will become concentrated through the extraction process. That means, that to protect consumers from consuming high levels of dangerous heavy metals and toxins, these products must be tested, at a minimum, for heavy metals and pesticides. The products should also be tested for potency to ensure that the THC potency on the label is accurate and, if there are caps on THC, the products do not exceed the caps.

**Fourth**, it is unclear how the bill treats synthetic THC or how it defines THC. All New England states prohibit the production of hemp products containing synthetic THC, including THC produced from other derivatives from the hemp plant, and define THC to include delta-9, delta-8, delta-10, and THC-V among other intoxicating cannabinoids. The following is how Vermont defines THC for purposes of its cap on THC content for hemp products and synthetic THC:

THC includes “[a]ll isomers, variants, analogs, and mimetics of delta-9 tetrahydrocannabinol, including delta-8 and delta-10 tetrahydrocannabinol, created by chemical manipulation of any part or derivative of the plant *Cannabis sativa* L., regardless of the delta-9 tetrahydrocannabinol concentration level of the source plant or plants”.

Synthetic THC is THC “that has been chemically or mechanically concentrated or otherwise derived from hemp and then sprayed, infused, or otherwise artificially introduced onto or into any product, including hemp or hemp products, so as to impart intoxicating properties mimicking those of cannabis and cannabis products”.

Attached is a copy of the emergency rule regarding regulation of hemp products containing THC that VT Cannabis Control Commission adopted in 2023.

### **Overview of New England State Laws Governing the Manufacturing and Sale of Hemp Products**

In every state in New England, hemp products containing THC are either banned (MA and NH) or a cap is imposed on THC and any products that exceed that cap are restricted to the state legal cannabis markets (VT, CT, RI with the exception of certain beverages that can be sold in liquor stores with a waiver issued by the state of Connecticut). In Vermont, any product that exceeds 1.5mg of THC per serving **MUST** be produced through the state cannabis program (by a licensed state cannabis manufacturer and sold at a state licensed cannabis store). In Connecticut and Rhode Island, any edible products exceeding 1mg of THC per serving and in Connecticut beverages exceeding 3 mg of THC per serving, **MUST** be produced through the state cannabis program (by a licensed state cannabis manufacturer and sold at a licensed cannabis store with the exception that companies can apply for a waiver to sell cannabis beverages with 5mg or less at stores where liquor is sold).

Those states that regulate intoxicating hemp place caps on THC content and require health and safety testing for potency, heavy metals, pesticides, and toxins.

	MA	NH	VT	CT	RI
<b>Cap on Delta-9 THC for Products Sold OUTSIDE of the Adult Use Cannabis Market?</b>	N/A - Hemp products containing any amount of THC are <b><u>banned per an advisory</u></b>	Hemp products exceeding 0.3% are <b><u>banned</u></b> ; per statute (N.H. Rev. Stat. § 439-A:4 )	<b><u>Cap of 1.5mg THC per serving</u></b> (not to exceed 10mg per package).  Hemp products containing <b><u>more than</u></b> 1.5 mg THC per serving or that are 1.5mg of THC per serving, but contain <b><u>more than</u></b> 10 mg total THC per	<b><u>Cap of 1mg THC per serving for edibles</u></b>  Cap of 3 mg per container for infused beverages  Hemp products edibles products containing <b><u>more</u></b> than 1mg of THC per serving and hemp beverages containing more	<b><u>Cap of 1mg THC per serving</u></b> (serving defined as an amount a person would eat in a single sitting)  Hemp Products containing <b><u>more</u></b> than 1mg THC per serving

			package regulated under cannabis program	than 3mg of THC are regulated under cannabis program	are regulated under cannabis program
<b>Products OVER the THC Cap Restricted to Legal Adult Use Cannabis Market? (Yes, No)</b>	N/A - Banned	N/A – Banned	Yes	Yes / <u>beverage waiver program for 'package stores'</u> (all products must be produced and sold within the legal cannabis market with the exception of beverages with a waver granted by the state).	Yes
<b>Testing Required? (Type)</b>	N/A	N/A	Yes; <u>tested under cannabis program</u>	<u>"Commercially Available methods"</u>	Yes; <u>Certificate of Analysis from an Approved Testing Facility</u>

Passing this legislation, without increasing regulation and oversight, will undermine the policy goal of promoting public health and safety. Therefore, we urge you to instead impose a moratorium on the sale of intoxicating hemp products while you take the time to draft a law that aligns with best regulatory practices for the production, manufacture, and sale of these products.

# **The unregulated and potent hemp products on Maine shelves**

by **Billy Kobin**  
May 12, 2025



Hemp-derived drinks containing up to 60 milligrams of THC are pictured for sale Friday at a store in Portland. State and federal lawmakers have debated how and whether to regulate intoxicating hemp products containing higher levels of THC. Credit: Billy Kobin / BDN

Years after Congress passed a milestone Farm Bill, an alliance of marijuana and health advocates are raising the alarm about how a loophole has permitted sales of intoxicating hemp products that appear on shelves with few regulations.

The federal legislation in 2018 legalized hemp, which is cannabis with less than 0.3 percent of THC, the main psychoactive compound in marijuana. But the sweeping bill that Congress may replace or extend by the end of 2025 did nothing to keep hemp-derived products from having higher potencies, such as hundreds or thousands of milligrams of THC.

## Should Maine increase regulation on intoxicating hemp-derived products?

Yes

No

Hemp-derived drinks, edibles and “THCA flower” have popped up in Maine via smoke shops, convenience stores and online orders outside of the state-regulated medical and adult-use market. Over the past year, members have increasingly noticed intoxicating hemp options with unclear combinations of ingredients and originate from out of state.

The fight between the hemp industry, which prefers the existing federal rules, and an alliance of cannabis and public health groups concerned about intoxicating, unregulated products is reaching Maine and other states. Lawmakers in neighboring Massachusetts and other states are looking at new regulations around the intoxicating hemp-derived products.

Maine lawmakers are not moving as swiftly yet, though they are looking at ensuring buyers of intoxicating hemp products are at least 21 years old while otherwise debating testing rules and how to handle the proliferation of illicit marijuana grow houses linked to China.

“It’s really a whack-a-mole problem,” said former state Rep. Patty Hymanson, D-York, a neurologist who served on a work group last year that formed out of failed legislation to regulate intoxicating hemp and that recommended a 21-year-old age limit for buyers while not reaching consensus on other policy ideas.

Joel Pepin, owner of JAR Cannabis Co., which has several retail stores in the state, said fellow shop owners have removed the intoxicating products manufactured out of state and that they failed tests for Maine's acceptable levels of mold, heavy metals and other chemicals.

Industry members provided photos of a "THC Nerdz Cluster" for sale at a Farmington smoke shop containing 275 milligrams per cluster. Illustrating the potency of those intoxicating products, Pepin said he advises new customers to start only with a 2.5 mg to 5 mg dose.

The Office of Cannabis Policy under Gov. Janet Mills said the continued absence of clear federal policy on intoxicating hemp-derived products, or IHDPs, has left states "increasingly inundated with IHDPs that are unregulated, untested, untracked and easily accessible by minors," spokesperson Alexis Soucy said, adding the office wants new regulations.

"While the proliferation of these unregulated, intoxicating products is first and foremost a matter of public health and safety, it also poses a threat to Maine's regulated cannabis market," Soucy said.

Intoxicating hemp products are "a major concern for public health and safety," Matt Wellington, associate director of the Maine Public Health Association, said Friday.

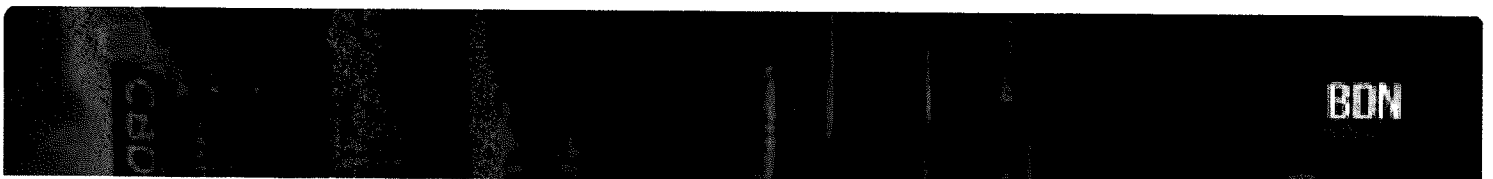
"Young people are easily getting their hands on them, and sometimes people don't even know the drink they're buying at the convenience store isn't a harmless seltzer but actually an intoxicating beverage, because they're being sold alongside non-intoxicating products," Wellington said.

State agencies in Massachusetts issued guidance in 2024 saying the intoxicating hemp-derived products are illegal, but enforcement that is left to local health boards has reportedly remained uneven. Lawmakers in Maine's neighboring state are considering new regulations this year while also not wanting to hinder non-intoxicating hemp products, such as CBD oils or creams.

Sean, who works for the Mystique of Maine cannabis business and preferred not to use his last name for fear of retaliation from government officials, said the state must decide how to best regulate THC and the products containing it. He described suppliers of intoxicating hemp beverages and THCA flowers coming into his stores to try to get Mystique to sell them.

But Rep. David Boyer, R-Poland, an ally of medical growers who helped lead Maine's marijuana legalization efforts and sits on the committee overseeing the industry, nodded to the state-level regulatory challenges by noting the proliferation of internet sales.

"How do you enforce that at the state level?" Boyer wondered.





# **THE UNREGULATED AND POTENT HEMP PRODUCTS ON MAINE SHELVES**

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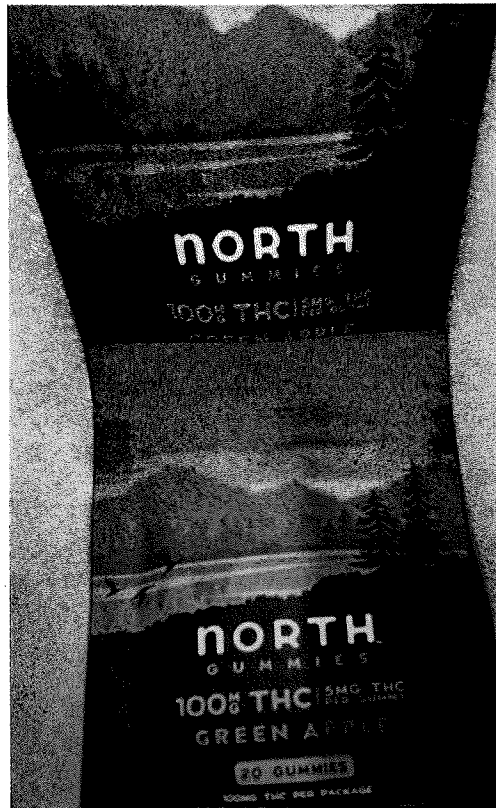
**Photographs Taken at Cumberland Farms in Lewiston, ME**

**May 2025**











# HHS Public Access

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## Closing the Loophole on Hemp-Derived Cannabis Products:

### A Public Health Priority

**Alyssa F. Harlow, PhD MPH,**

Department of Population and Public Health Sciences and Institute for Addiction Science, Keck School of Medicine, University of Southern California, Los Angeles.

**Adam M. Leventhal, PhD,**

Department of Population and Public Health Sciences and Institute for Addiction Science, Keck School of Medicine, University of Southern California, Los Angeles.

**Jessica L. Barrington-Trimis, PhD**

Department of Population and Public Health Sciences and Institute for Addiction Science, Keck School of Medicine, University of Southern California, Los Angeles.

A federal policy loophole allows psychotropic (ie, mind-altering or intoxicating) cannabis products to be commercially marketed and sold across the US—including in states where recreational cannabis is not legal. The Agriculture Improvement Act of 2018, commonly known as the 2018 Farm Bill,<sup>1</sup> legalized the growth and sale of hemp. Hemp is defined as a botanical class of the *cannabis sativa* plant that contains low concentrations of ( $\Delta^9$ -tetrahydrocannabinol ( $\Delta^9$ -THC, which is the most well-studied psychotropic cannabis-specific compound [ie, cannabinoid]) and high concentrations of non-psychotropic cannabidiol (CBD).<sup>1</sup> However, hemp also contains low concentrations of hundreds of other cannabinoids besides CBD and THC,<sup>2</sup> which, until recently, were believed to be present in amounts too small to produce psychotropic effects.

Under the protection of the Farm Bill,<sup>1</sup> manufacturers can synthesize and sell hemp-derived cannabis products with psychotropic doses of cannabinoids, such as  $\Delta^8$ -THC,  $\Delta^0$ -THC,  $\Delta^{10}$ -THC, and hexahydrocannabinol (and others). These hemp-derived cannabis products produce similar psychotropic effects as  $\Delta^9$ -THC and are being sold across the US as vape cartridges, edibles, concentrates (eg, potent extracts), and tinctures (eg, infused liquids). Clinicians and policy makers should be aware of public health concerns of widely available, psychotropic, hemp-derived cannabis products that are being manufactured and sold with little regulation, leading to potential health and safety risks.

First, unlike traditional state-regulated  $\Delta^9$ -THC cannabis that is sold in medical or recreational dispensaries for adult use, psychotropic, hemp-derived cannabis products are sold online and by brick-and-mortar retailers (eg, vape and smoke shops, convenience stores, and gas stations). Retailers selling these products do not have the same safeguards

**Corresponding Author:** Alyssa F. Harlow, PhD, MPH, Department of Population and Public Health Sciences, University of Southern California, 1845 N Soto St, Los Angeles, CA 90032 (afharlow@usc.edu).

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in place that state-run cannabis control bureaus have developed to reduce potential harm to consumers.<sup>3</sup> For example, there is no established minimum purchasing age for hemp-derived cannabis products. In addition, there are no requirements for hemp-derived products to include warning labels for the presence of THC, or instructions on their packaging regarding appropriate doses. States with cannabis legalization for recreational use, medical use, or both uses generally prohibit cannabis retailers from also selling tobacco and alcohol. However, retailers that sell psychotropic, hemp-derived cannabis products may also sell alcohol and tobacco products like e-cigarettes and cigarettes; this increases the potential for co-use of multiple substances, which can lead to excessive impairment and greater risk of drug dependence.

Second, due to limited regulation, psychotropic, hemp-derived cannabis products have marketing features that may appeal to youth. For example, such products are available as chocolates, gummies, cookies, and brownies and the packaging and advertisements often use bright and colorful designs. In addition, hemp-derived cannabis vape cartridges come in a wide range of sweet and fruity flavors, which increase appeal among youth and young adults. Because of their similarity to candy and food products, accidental exposure by children, adults, and animals is a concern. Between January 1, 2021, and February 28, 2022, national poison control centers received reports of 2362 cases of  $\Delta^8$ -THC exposures, of which 40% involved accidental exposure to  $\Delta^8$ -THC (82% among youth), 70% required evaluation at a health care facility, 8% were admitted to a critical care unit, and 1 pediatric death was reported.<sup>2</sup> Animal poison control centers have also seen an increase in reports of accidental pet exposure to  $\Delta^8$ -THC.<sup>2</sup>

Third, there is no standardized approach to synthesizing psychotropic, hemp-derived cannabinoids, and such products could contain dangerous and toxic byproducts. Hemp plants naturally contain low concentrations of psychotropic cannabinoids; manufacturers must first extract CBD from hemp, which they then convert to psychotropic cannabinoids through a series of chemical reactions. There is no required certification process to test hemp-derived cannabis products for potential contaminants. Independent laboratory tests of legally purchased hemp-derived cannabis products have revealed the presence of toxic heavy metals (eg, lead), residual solvents (eg, acetone), and multiple unidentified compounds with unknown toxicological harms.<sup>4</sup> Inhalation of contaminated cannabis vaping products can lead to serious lung injury, as evidenced by the 2019 EVALI (e-cigarette, or vaping, product use–associated lung injury) outbreak.<sup>5</sup> In addition, the minor cannabinoids themselves naturally occur in very small amounts in the *cannabis sativa* plant, and there has been little research on the effects of human ingestion of such cannabinoids at the high doses currently in products available on the market.

Fourth, the psychotropic properties of some hemp-derived cannabis products may be less potent than  $\Delta^9$ THC. For example, both manufacturers and consumers have colloquially called  $\Delta^8$ -THC products “diet weed.” Because of lower potency, individuals may consume higher volumes of hemp-derived cannabis products than traditional  $\Delta^9$ -THC products, leading to adverse effects such as hallucinations, vomiting, tremor, anxiety, dizziness, confusion, and loss of consciousness.<sup>2</sup> It is not uncommon to see gummies with 50 mg of  $\Delta^8$ -THC per serving (compared with 5–10 mg of  $\Delta^9$ -THC in a standard product sold

in a dispensary). In addition, other synthesized THC isomers may be more potent than  $\Delta^9$ -THC. For example, at the same dose,  $\Delta^8$ -THC is considered 3 times stronger<sup>6</sup> than traditional  $\Delta^9$ -THC, and products often contain a blend of different hemp-derived THC isomers. Consumers may not be aware of such differences and may be at risk for adverse effects from receiving a dose of a hemp-derived cannabinoid with higher potency than anticipated.

The 2018 Farm Bill<sup>1</sup> specified both the US Department of Agriculture and the US Food and Drug Administration (FDA) as regulatory authorities over hemp and hemp-derived products. Under the Federal Food, Drug, and Cosmetic Act,<sup>7</sup> hemp-derived cannabis products cannot be sold as dietary supplements, food products, or marketed with medical claims. However, beyond issuing a health alert and several warning letters to a small number of companies, there has been little action by the FDA to regulate hemp-derived cannabis products. In the absence of federal regulatory action, 21 states have enacted legislation to restrict or ban the sale of psychotropic, hemp-derived cannabis products.<sup>8</sup>

However, the sale of psychotropic, hemp-derived cannabis products remains legal in 29 states and in Washington, DC, and online sales may render state regulations ineffective. Notably, 23 of the 29 states in which products are permitted have not legalized recreational cannabis, suggesting availability of hemp-derived cannabis products is more common in places where legal cannabis is unavailable. There is also substantial state-level variation in regulatory approaches. For example, Minnesota legalized the sale in 2022 of ingestible products containing no more than 5 mg of hemp-derived THC per serving. In Colorado and Oregon,  $\Delta^8$ -THC and other isomers are included in their overall definition of THC and thus all psychotropic, hemp-derived products fall under cannabis control regulatory authority, effectively closing the hemp loophole.<sup>3</sup> The hemp policies in Oregon and Colorado have promise for reducing harm because they ensure all psychotropic cannabis products (including those derived from hemp) meet safety standards and adhere to marketing restrictions.

The increasing marketing of psychotropic, hemp-derived cannabis products makes clear that a regulated hemp market that manufactures and sells products with more oversight and stricter safety standards is urgently needed. Many of the potential harms of hemp-derived cannabis products stem from a lack of regulation, including the potential for harmful contaminants, accidental exposure, cross-product sale with tobacco and alcohol, and youth appeal.

State and federal regulators should prioritize new hemp policies that ensure prohibition of sale to minors; set requirements for testing, packaging, and labeling; and place limits on potency and concentration of psychotropic products. The public health implications of psychotropic, hemp-derived cannabis products remain understudied. However, the lack of regulation over the marketing and synthesis of these products, combined with the widespread availability, warrants national surveillance and new hemp policies that close loopholes and prioritize public health.



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**STATE OF VERMONT  
CANNABIS CONTROL BOARD**

**EMERGENCY RULE: SYNTHETIC and HEMP-DERIVED CANNABINOIDS**

*The Board shall have the authority to regulate synthetic cannabinoids and hemp-derived cannabinoids, including delta-8 and delta-10 tetrahydrocannabinol.*

7 V.S.A. § 862a.

**Emergency Rule 1: Prohibition**

The production, manufacture, marketing, transfer, and sale of hemp-derived intoxicating cannabinoids and synthetic cannabinoids are hereby prohibited, except as set out in Emergency Rule 3. Prohibited cannabinoids include:

- (a) All isomers, variants, analogs, and mimetics of delta-9 tetrahydrocannabinol, including delta-8 and delta-10 tetrahydrocannabinol, created by chemical manipulation of any part or derivative of the plant *Cannabis sativa* L., regardless of the delta-9 tetrahydrocannabinol concentration level of the source plant or plants; and
- (b) delta-9 tetrahydrocannabinol that has been chemically or mechanically concentrated or otherwise derived from hemp and then sprayed, infused, or otherwise artificially introduced onto or into any product, including hemp or hemp products, so as to impart intoxicating properties mimicking those of cannabis and cannabis products.

**Emergency Rule 2: Presumptions**

A consumable product that is not cannabis or a cannabis product is presumptively prohibited regardless of the delta-9 tetrahydrocannabinol concentration of any plant from which the product is sourced, if the product, in the form offered to consumers:

- (a) contains total tetrahydrocannabinol in a concentration exceeding 0.3 percent on a dry weight basis; or
- (b) contains more than 1.5 mg tetrahydrocannabinol per serving, where “serving” is the amount reasonably ingested by a typical consumer in a single instance; or
- (c) contains more than 10 mg total tetrahydrocannabinol per package, unless the ratio of cannabidiol to tetrahydrocannabinol is at least 20:1; or
- (d) has the dominant market appeal of mimicking the intoxicating effects of tetrahydrocannabinol.

**Emergency Rule 3: Exceptions**

Rule 1 shall not apply to:

- (a) a product duly evaluated, registered, and regulated by the Board as a cannabis product;
- (b) an otherwise-prohibited cannabinoid-containing product that has been specifically authorized by the Board for sale at a licensed medical dispensary based upon a finding, pursuant to 7 V.S.A. § 971(b)(6), that the product is appropriate for use by a patient; or
- (c) manufactured pharmaceutical drugs approved by the United States Food & Drug Administration for therapeutic use upon the prescription of a medical provider, to include Epidiolex, Marinol, Syndros, Cesamet, and Sativex.

Effective: April 24, 2023