



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF AGRICULTURE, FOOD & RURAL RESOURCES
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November 1, 2024

Sen. Henry Ingwerson, Senate Chair
 Rep. Bill Pluecker, House Chair
 Joint Standing Committee on Agriculture, Conservation and Forestry
 Via Email

RE: INTOXICATING HEMP-DERIVED PRODUCTS

The 131st Legislature’s Joint Standing Committee on Agriculture, Conservation and Forestry (ACF) considered LD 1996, *An Act to Regulate Synthetic Hemp-derived Cannabinoids*. That bill recognized that Maine law provides no mechanism for limiting access to intoxicating hemp-derived products (IHDPs). This is true despite the intoxicating effects of some products that fall within the federal definition of hemp. Following a public hearing and work session on LD 1996, the committee voted unanimously that it ought not to pass. That vote notwithstanding, the committee recognized the gravity of the concerns behind the legislation. On February 14, 2024, you sent a letter requesting that the Department of Agriculture, Conservation and Forestry (DACF) establish a working group to investigate this issue and develop recommendations. This letter constitutes DACF’s response to that request.

As requested, DACF convened a working group that included hemp producers and processors, public health experts (both from within State government and the private sector), and retail industry representatives. We also invited staff from State agencies with experience regulating retail products for their technical expertise. Craig Lapine, Director of DACF’s Bureau of Agriculture, Food & Rural Resources (BAFRR), and Gary Fish, State Horticulturalist and manager of the State’s Hemp Program, co-chaired the working group. Brooklyn Bolduc of BAFRR’s Agricultural Resource Development Division provided staff support. Members included the following:

Community Members	Alan Lapoint	Hemp beverage manufacturer
	Ben Edwards	Owner, Schoppe Farm
	Chas Gill	Owner, Merrymeeting Bay Hemp Co.
	Patty Hymanson, MD	Public health advocate and former state legislator
	Erica Haywood	Owner, LoveGrown Hemp
State Staff	Lizzy Hayes	Owner, Panorama Seeds
	Gabi Pierce	Policy Analyst, Department of Administrative and Financial Services (DAFS)
	Louis Luchini	Director, DAFS Bureau of Alcoholic Beverages and Lottery Operations (BABLO)
	Larry Sanborn	Liquor Inspector, BABLO

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	John Hudak	Director, DAFS Office of Cannabis Policy (OCP)
	Alexis Perry	Maine CDC
	Ben Metcalf	Inspection Program Manager, BAFRR Quality Assurance and Regulation Division

The group held one in-person meeting on June 20, 2024, and one virtual meeting on August 30, 2024. Input from group members was supplemented by responses to a questionnaire circulated among stakeholders during July and August.

Participants were unanimous that the status quo in which IHDPs are unregulated threatens public health and safety as well as the viability of Maine’s hemp industry. Hemp growers and processors recognize that accidental intoxications or other adverse impacts on Maine children and youth would be detrimental to growers and processors. Regulators and public health advocates expressed concerns regarding the health and safety impacts of these unregulated and untested intoxicating substances on consumers.

Concerns for consumers are amplified by the high potential for consumer confusion about the distinction between these unregulated IHDPs and adult-use cannabis that is tested, tracked, and age-gated within the State’s existing adult-use cannabis program. Further compounding those concerns is the reality that many unregulated IHDPs are packaged in a manner intended to mimic either existing adult-use cannabis products or, more dangerously, snack foods or sweets marketed to children. Thus, it was clear to all working group members that the continued unregulated manufacture and sale of these IHDPs in Maine should be stopped.

While not unanimous in every case, the working group broadly backed the following approach to regulating IHDPs:

1. Age-gate at 21 all hemp products other than fiber and grain.

A preponderance of the working group members advocated that the most straightforward way to protect both public safety and Maine’s hemp industry is to age-gate all hemp products, intoxicating or not. They recommended an exemption for fiber and seed products, which are unlikely to contain enough cannabinoids to be intoxicating.

A challenge for age-gating IHDPs is defining which products and compounds are intoxicating. Chemists have proven adept at creating new cannabinoids, so any fixed list of regulated molecules will likely develop loopholes as soon as it is promulgated. As a result, the working group concluded that the least complicated approach would be to age-gate all hemp products regardless of their potential to be intoxicating. This approach may add a burden for those marketing or selling CBD and full-spectrum products, but it makes enforcement clear-cut and straightforward. This recommendation is consistent with last year’s discussions at the State House regarding LD 1996.

2. Cap THC content at 5 mg for IHDP beverages.

Working group members felt that even with an age gate, 5 mg of hemp-derived tetrahydrocannabinol (THC) should be the maximum concentration per serving for hemp beverages. They also thought that this 5 mg THC/beverage serving cap should apply to any combination of THC, whether it is solely delta-9 THC or a combination of delta-8, -9, -10. As noted above, the market has demonstrated substantial creativity, and new THC molecules (and other cannabinoids) are regularly introduced to the consumer market.

Participants recommended that tinctures and other concentrated supplements be exempted from this cap.

3. **Take steps to minimize product confusion.**

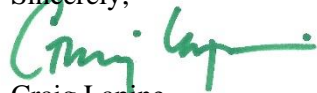
As noted above, many unregulated IHDPs are packaged intentionally to confuse consumers by mimicking either existing adult-use cannabis products or non-intoxicating consumer products. This confusion can be amplified within stores when IHDPs with copycat names or labels are displayed with or near the non-intoxicating products they mimic. The working group recommends the State prohibit both copycat packaging and displaying IHDPs and non-intoxicating products together.

4. **Adequately resource the agency tasked with enforcement.**

Enacting and implementing an age gate will require granting new authority to some state agency; no agency is currently statutorily sanctioned to enforce restrictions on federally legal hemp products. The working group recommended that the agency granted this authority be provided with adequate capacity and resources to take on the job and specific enforcement authority to implement the restrictions.

Like many Maine people, we at DACF are concerned about the State's inability to age-gate or restrict access to these products. We hope you find the recommendations of this working group helpful in your continued consideration of the topic.

Sincerely,



Craig Lapine
Bureau Director

cc: Sen. Teresa Pierce, Cumberland
Karen S. Nadeau, ACF Committee Legislative Analyst