



STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>By</p> <p>KRIS MAYES ATTORNEY GENERAL</p> <p>March 11, 2024</p>	<p>No. I24-005 (R24-001)</p> <p>Re: Sale of products containing delta-8 and other hemp-synthesized intoxicants</p>
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Question Presented

Does Arizona law permit an entity that is not appropriately licensed by the Arizona Department of Health Services (“Health Services”) to sell products containing hemp-synthesized intoxicants like delta-8 tetrahydrocannabinol (“THC”), delta-10 THC, or any other product that has been synthetically converted from naturally occurring cannabidiol (“CBD”) or other cannabinoids into intoxicating substances?

Summary Answer

No, Arizona law does not permit the sale of delta-8 and other hemp-synthesized intoxicants by entities that have not been licensed by Health Services.¹ Irrespective of delta-8’s arguable federal legality under the 2018 Agriculture Improvement Act (“Farm Bill”), Arizona continues to define and regulate “industrial hemp” in a manner that precludes the sale of hemp-synthesized intoxicants in convenience stores, smoke shops, and other unlicensed locales.

Background

I. Arizona allows medical and recreational cannabis use, subject to strict regulation.

Cannabis laws in the United States have evolved rapidly over the last thirty years. In 1996, “California became the first state to effectively remove criminal penalties for qualifying patients who possess and use medical marijuana.” Marijuana Policy Project, *State-by-State Medical Marijuana Laws*, at 7 (2015).² As of 2023, approximately 38 states now permit cannabis use for medical purposes and approximately 24 states have recreational use laws. National Conference of State Legislatures, *State Medical Cannabis Laws* (June 22, 2023).³

In 2010, Arizona enacted the Arizona Medical Marijuana Act (“AMMA”), which permits “those who meet statutory conditions to use medical marijuana.” *Reed-Kaliher v. Hoggatt*, 237 Ariz. 119, 122 ¶ 7 (2015); A.R.S. §§ 36-2801 to -2822.⁴ In 2020, Arizona voters passed the Smart

¹ While this Opinion will generally reference “delta-8” for brevity, its analysis applies equally to delta-10 and other hemp-synthesized intoxicants, whether currently existing or developed in the future. The Opinion has no application to cannabis products that are generally understood to be non-intoxicating, such as CBD.

² <https://www.mpp.org/assets/pdf/issues/medical-marijuana/State-by-State-Laws-Report-2015.pdf>.

³ <https://www.ncsl.org/health/state-medical-cannabis-laws#:~:text=improve%20cannabis%20research-,State%20vs%20Federal%20Perspective,of%20cannabis%20a%20federal%20offense.>

⁴ AMMA defines “marijuana” to mean “all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.” A.R.S. § 36-2801(10).

and Safe Arizona Act, which “legalized certain conduct related to the recreational use, cultivation, and sale of marijuana.” *State v. Ibarra*, 254 Ariz. 320, 323 ¶ 6 (App. 2022); A.R.S. §§ 36-2850 to -2865.⁵ Health Services is responsible for implementing and enforcing both laws. A.R.S. §§ 36-2850(7), -2854(A), -2804.01.

II. The Farm Bill arguably legalized hemp-synthesized intoxicants under federal law.⁶

Notwithstanding the trend towards state-level cannabis legalization, marijuana and other intoxicating cannabis products generally remain illegal at the federal level. *See* 21 C.F.R. § 1308.11(d) (listing mari[j]uana and tetrahydrocannabinols as Schedule 1 controlled substances); 21 U.S.C. § 841 (establishing penalties for distributing certain quantities of marijuana).

Hemp, like marijuana, is part of “the plant species [c]annabis sativa.” USDA, *What is Industrial Hemp* (February 29, 2024) (italics omitted).⁷ Hemp, however, has an extremely low concentration of delta-9 THC, the primary psychoactive compound in marijuana. Hemp also has a variety of industrial and consumer uses, including in connection with manufacturing “cloth, pressed plastics, ropes, animal bedding, paper, biofuel, packaging, [and] concrete additives.” USDA, *Hemp and Farm Programs*.⁸ In 2014, Congress passed a law permitting states to legally cultivate “industrial hemp” to the extent “the growing or cultivating of industrial hemp is” permitted under state law in connection with an “agricultural pilot program or other agricultural or

⁵ The recreational use law defines “marijuana” to mean “all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.” A.R.S. § 36-2850(19) (providing that “marijuana” also “[i]ncludes cannabis as defined in [§] 13-3401” but excludes industrial hemp).

⁶ The Office expresses no opinion regarding delta-8’s legality under federal law. This recitation of federal law is included solely to provide relevant background and context in relation to the discussion of Arizona law that follows.

⁷ <https://ask.usda.gov/s/article/What-is-Industrial-Hemp>.

⁸ <https://www.farmers.gov/your-business/row-crops/hemp>.

academic research.” 7 U.S.C. § 5940(a), (b)(2).⁹ The 2014 law defined “industrial hemp” as “the plant [*c*]annabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” *Id.* § 5940(b)(2).

Four years later, Congress passed the 2018 Farm Bill, which “facilitate[d] the commercial cultivation, processing, marketing, and sale of industrial hemp in the United States.” Congressional Research Service, *2018 Farm Bill Primer: Hemp Cultivation and Processing* (January 30, 2019).¹⁰ The Farm Bill expanded the definition of “hemp” to mean “any part of [the cannabis sativa L] plant, including the seeds thereof and *all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers*, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. § 1639o(1) (emphasis added).

The 0.3% delta-9 THC threshold effectively differentiates between psychoactive marijuana and non-intoxicating hemp. The Farm Bill, however, is silent on delta-8 THC—another psychoactive compound that is found naturally in hemp in low concentration, but that may be chemically synthesized from the naturally occurring cannabidiol (“CBD”) in hemp into a higher, intoxicating concentration. Delta-8 proponents have therefore argued that the Farm Bill legalized delta-8 and other intoxicating hemp derivatives.

At least one Ninth Circuit case supports this argument. In *AK Futures LLC v. Boyd Street Distro, LLC*, a case analyzing delta-8’s legality for purposes of resolving a trademark dispute, the

⁹ *Repealed* by Pub.L. 115-334, Title VII, § 7605(b), Dec. 20, 2018, 132 Stat. 4829; Pub.L. 116-159, Div. A, § 122, Oct. 1, 2020, 134 Stat. 714; Pub.L. 116-260, Div. A, Title VII, § 782, Dec. 27, 2020, 134 Stat. 1230.

¹⁰ <https://crsreports.congress.gov/product/pdf/IF/IF11088>.

Ninth Circuit held that “[t]o the extent . . . the [DEA] schedule suggests that hemp-derived delta-8 THC remains controlled regardless of its delta-9 THC concentration level, this is inconsistent with both statutory text and the DEA’s own duly enacted regulations.” 35 F.4th 682, 693 (9th Cir. 2022). Thus, according to the Ninth Circuit, “delta-8 THC products are not prohibited by federal law.” *Id.* at 689 (holding that delta-8 manufacturer was not barred by illegality from enforcing its trademark).

On the other hand, the Drug Enforcement Administration (“DEA”) continues to “list[] delta-8 THC among tetrahydrocannabinols controlled under schedule 1.” *Id.* at 693; DEA, *Controlled Substances*, at 20 (December 14, 2023).¹¹ But the DEA also appears to have given mixed messages regarding delta-8’s federal status. *Compare* 9/15/21 T. Boos letter to D. Yeatman¹² (stating on behalf of the DEA that delta-8 “synthetically produced *from non-cannabis materials* is controlled under the [Controlled Substances Act] as a ‘tetrahydrocannabinol’” while “[t]he CSA . . . excludes from control ‘tetrahydrocannabinols in hemp’”) (emphasis added); *with* 8/13/21 T. Boos email to H. Wade¹³ (“Arriving at delta-8-THC by a chemical reaction starting from CBD makes the delta-8-THC synthetic and therefore, not exempted by the [Farm Bill].”).

III. Arizona legalizes “industrial hemp” for some purposes.

In 2018, before the federal Farm Bill’s passage, Arizona enacted a hemp pilot program “[t]o promote the economy and agriculture in this state by allowing institutions of higher learning and the department to develop and regulate industrial hemp as part of an agricultural pilot program for the purpose of research into the growth, cultivation and marketing of industrial hemp as authorized by the agricultural act of 2014.” A.R.S. § 3-312(B)(1); *see* H.B. 1098, 53rd Leg., 2d

¹¹ https://www.deadiversion.usdoj.gov/schedules/orangebook/c_cs_alpha.pdf.

¹² <https://hempindustrydaily.com/wp-content/uploads/2021/11/DEA-letter-to-AL-BOP.pdf>.

¹³ <https://ondrugs.substack.com/p/told-you-so>.

Reg. Sess. (May 14, 2018). The Arizona Department of Agriculture administers the industrial hemp program. A.R.S. §§ 3-101, -314. And while the law seeks “[t]o allow the commercial growth, cultivation and marketing of industrial hemp,” it does so “while maintaining strict control of marijuana.” A.R.S. § 3-312(B)(2).

IV. Delta-8 products proliferate in Arizona and across the country.

Seizing on the so-called “loophole” in the federal Farm Bill,¹⁴ cannabis producers “started experimenting with ways to convert CBD into delta-8-THC.” Britt E. Erickson, Chemical and Engineering News, *Delta-8-THC craze concerns chemists* (Aug. 30, 2021) (“*Delta-8-THC craze*”).¹⁵ Today, delta-8 is “[f]ound in gummies, vape cartridges, tinctures, and other products,” and it “is popping up in gas stations, convenience stores, tobacco shops, and cannabis dispensaries throughout the US and beyond—often with no age restrictions.” *Id.*

While “[d]elta-8 is popular in states without legal marijuana . . . it also has proliferated in places like Arizona.” Ryan Randazzo, *What is delta-8? Does it get people high? Here’s what to know about the new marijuana substance*, The Arizona Republic, March 14, 2023.¹⁶ And often, “[m]anufacturers are packaging and labeling these products in ways that may appeal to children.” U.S. Food & Drug Administration, *5 Things to Know about Delta-8 Tetrahydrocannabinol – Delta-8 THC* (May 4, 2022) (“*5 Things*”).¹⁷

¹⁴ See, e.g., NBC News, *The U.S. Has a Chance to Regulate Delta-8 THC. Will It?* (September 5, 2023), <https://www.nbcnews.com/health/health-news/delta-8-thc-regulation-loophole-may-make-hard-know-cannabis-products-rcna102961>.

¹⁵ <https://cen.acs.org/biological-chemistry/natural-products/Delta-8-THC-craze-concerns/99/i31>.

¹⁶ <https://www.azcentral.com/story/money/business/consumers/2023/03/14/delta-8-marijuana-explained/70005377007/>.

¹⁷ <https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc>.

V. **Public health officials raise concerns about Delta-8 products.**¹⁸

According to a May 2022 Food and Drug Administration advisory, “delta-8 THC products have not been evaluated or approved by the FDA for safe use in any context,” and “[t]hey may be marketed in ways that put the public health at risk and should especially be kept out of reach of children and pets.” U.S. FDA, *5 Things*.

The public-health concerns about delta-8 “include variability in product formulations and product labeling, other cannabinoid and terpene content, and variable delta-8 THC concentrations.” *Id.* And “with no regulatory oversight and limited laboratory testing, most products sold as delta-8-THC are not actually pure delta-8-THC.” Erickson, *Delta-8-THC craze*. According to the FDA, “[s]ome manufacturers may use potentially unsafe household chemicals to make delta-8 THC through this chemical synthesis process,” and “[t]he final delta-8 THC product may have potentially harmful by-products (contaminants) due to the chemicals used in the process.” U.S. FDA, *5 Things*.

Further, the “[m]anufacturing of delta-8 THC products may occur in uncontrolled or unsanitary settings, which may lead to the presence of unsafe contaminants or other potentially harmful substances.” *Id.* One laboratory president who has overseen the testing of “thousands of products labeled delta-8-THC” said that he has “not seen one that [he] would consider a legitimate delta-8-THC product.” Erickson, *Delta-8-THC craze* (internal quotation marks omitted). According to another scientist, there is “‘quite a soup’ of by-products and other unwanted compounds” in purported delta-8 products—and “nobody is measuring the pH of delta-8 products or testing for strong acids and residual metals that are left behind.” *Id.*

¹⁸ Ultimate conclusions regarding delta-8’s potential health risks are subject to evolving public health information and are outside the scope of this Opinion. The Office includes this section to provide a brief overview of concerns expressed by public health officials and scientific experts.

As of May 2022, the FDA had “received 104 reports of adverse events in patients who consumed delta-8 THC products between December 1, 2020, and February 28, 2022,” and national poison control centers had “received 2,362 exposure cases of delta-8” products between early 2021 and early 2022. U.S. FDA, *5 Things*. And public health officials have warned that “the intoxicants can be especially dangerous for children” because they “can cause nausea and vomiting or make children so sleepy that their breathing is at risk.” Liz Whyte, *Hemp Gummies are Sending Hundreds of Kids to Hospitals*, Wall Street Journal, December 19, 2023.¹⁹

Analysis

You have asked this Office to examine whether entities that do not possess a license to sell cannabis products by Health Services can lawfully sell products containing delta-8 THC or similar hemp-synthesized intoxicants. The answer to that question depends on whether products containing hemp-synthesized intoxicants constitute “controlled substances” and/or “industrial hemp” under Arizona law. As explained below, we conclude that state law prevents entities not appropriately licensed by Health Services from selling products containing hemp-synthesized intoxicants like delta-8 THC.

I. Delta-8 THC is a Schedule 1 controlled substance in Arizona.

Arizona continues to list both cannabis and marijuana as Schedule 1 controlled substances. *See* A.R.S. § 36-2512(A) (directing pharmacy board to adopt as Schedule 1 controlled substances those substances identified in federal law and in A.R.S. § 13-3401). Arizona broadly defines cannabis to include “[t]he resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its

¹⁹ <https://www.wsj.com/health/healthcare/hemp-gummies-are-sending-hundreds-of-kids-to-hospitals-00ab0224>.

resin,” and “[e]very compound, manufacture, salt, derivative, mixture or preparation of such resin or tetrahydrocannabinol.” A.R.S. § 13-3401(4)(a)-(b). Hemp is part of the cannabis plant, *see* A.R.S. § 3-311(7), and hemp-synthesized intoxicants are a cannabis “derivative” and a “manufacture . . . derivative . . . or preparation” of tetrahydrocannabinol, A.R.S. § 13-3401(4)(a)-(b). Delta-8 therefore unquestionably falls within the definition of cannabis and is a Schedule 1 controlled substance in Arizona.²⁰

II. Arizona’s industrial hemp program does not exempt hemp-synthesized intoxicants from Health Services’ regulation.

Arizona defines “[i]ndustrial hemp” to “mean[] the plant *cannabis sativa* L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths percent on a dry-weight basis.” A.R.S. § 3-311(7). Importantly, in contrast to the federal definition of “hemp,” *see* 7 U.S.C. § 1639o(1), this definition does *not* include hemp “derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.”

Related provisions are in accord that industrial hemp does not include intoxicating derivatives and extracts of hemp in Arizona. The term “[h]emp products’ means all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction

²⁰ Section 13-3401(19) defines “marijuana” to mean “all parts of any plant of the genus *cannabis*,” excluding “mature stalks” and “sterilized seed.” The significance, if any, of the “mature stalks” exclusion is rendered immaterial by the breadth of § 13-3401(4)’s “cannabis” definition. Additionally, federal law (incorporated into Arizona law by § 36-2512(A)) defines marijuana and other hallucinogenic substances to include “any material, compound, mixture, or preparation, which contains any quantity of the [listed] hallucinogenic substances, or which contains any of its salts [or] *isomers*.” 21 C.F.R. § 1308.11(d) (emphasis added). “Delta-8-THC is an isomer of delta-9-THC,” and “[t]he only difference between the two molecules is the location of a double bond between two carbons.” Erickson, *Delta-8-THC craze; see also* Shanna Babalonis, et al., *Delta-8-THC: legal status, widespread availability, and safety concerns*, Cannabis Cannabinoid Res. (October 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8664123/> (“Delta-8 . . . is chemically and functionally similar to delta-9.”). Delta-8 therefore also likely falls within the definition of marijuana as an “isomer” of delta-9.

materials, plastics and by-products derived from sterile hemp seed or hemp seed oil.” A.R.S. § 3-311(5). Thus, “hemp products” must be made from industrial hemp—which excludes derivatives and extracts—and the exemplary products are uniformly industrial and nonintoxicating in nature. This definition, moreover, also explicitly “excludes any product made to be ingested except food made from sterile hemp seed or hemp seed oil.” *Id.*

The industrial hemp law also twice emphasizes Arizona’s continuing “strict” regulation and control of marijuana. A.R.S. § 3-312(A) (“The legislature finds and determines that developing and using industrial hemp can improve the economy and agricultural vitality of this state and that the production of industrial hemp can be regulated so as not to interfere with *strict regulation of marijuana* in this state.”) (emphasis added); *id.* § 3-312(B)(2) (“The purpose of [the industrial hemp program is] . . . [t]o allow the commercial growth, cultivation and marketing of industrial hemp if the commercial growth, cultivation and marketing of industrial hemp is authorized by federal law, while maintaining *strict control of marijuana*.”) (emphasis added).

In *AK Futures*, the Ninth Circuit noted that the party arguing federal illegality was “effectively asking us to recognize . . . that substances legalized by the Farm [Bill] must be somehow suited for an industrial purpose, not for human consumption.” 35 F.4th at 693. But an industrial-purpose “limitation appear[ed] neither in hemp’s [federal] definition, nor in its exemption from the Controlled Substances Act.” *Id.* Exactly the opposite is true under Arizona law. Arizona’s use of the term “industrial hemp,” itself, indicates an industrial purpose, and the related definitions and guidance uniformly confirm that Arizona did not intend to legalize an intoxicating derivative of hemp. Additionally, Arizona’s decision to place intoxicating cannabis products within Health Services’ purview and industrial hemp within the Department of Agriculture’s purview establishes yet another clear demarcation between these products.

III. Arguments that delta-8 is broadly legal in Arizona are unavailing.

Notwithstanding the industrial hemp law’s limited scope, advocates for broader delta-8 legalization have argued that Arizona has nonetheless legalized hemp-synthesized intoxicants in a manner coextensive with federal law. These arguments are unpersuasive.

A. The industrial hemp law cannot be understood to have legalized edible or non-edible forms of delta-8.

Section 3-311(5) expressly provides that the term “[h]emp products excludes any product made to be ingested except food made from sterile hemp seed or hemp seed oil.” Gummies and other food products containing delta-8 therefore plainly cannot fall within the meaning of a hemp product. Nor can this provision be understood by omission to permit the manufacture and sale of non-food products (such as vapes) containing delta-8. The dispositive point, again, is that nothing in the text, history, or context of the industrial hemp law can be read or construed to legalize any intoxicating substance. It would make no sense to believe that Arizona intended to “maintain[] strict control of marijuana,” A.R.S. § 3-312(B)(2), while impliedly legalizing an intoxicating cannabis derivative. *See also* A.R.S. § 36-2850(19)(a) (defining “marijuana” under the recreational use law to include “all parts” of the cannabis plant, including “every compound, manufacture, salt, derivative, mixture or preparation of the plant”); *id.* § 36-2850(20) (defining “[m]arijuana concentrate” similarly).

B. *State v. Jones* does not support an expansive reading of the industrial hemp law.

Arizona’s medical marijuana law defines marijuana to mean “all parts of any plant of the genus *cannabis* whether growing or not, and the seeds of such plant.” A.R.S. § 36-2801(10). In *State v. Jones*, the Arizona Supreme Court addressed whether this definition encompasses hashish, an “extracted resin” from marijuana. 246 Ariz. 452, 454 ¶ 1 (2019). Citing a dictionary definition of “part,” the Court found that “‘all parts’ refers to all constituent elements of the marijuana plant,

and the fact the resin must first be extracted from the plant reflects that it is part of the plant.” *Id.* at 455 ¶ 9. The Court therefore held that AMMA “protects ‘the registered qualifying patient’s *medical use of marijuana,*’ not just the use of the dried flowers of the marijuana plant.” *Id.* at 456 ¶ 12.

Contrary to the view espoused by delta-8 advocates, this holding cannot be extended to support a broad definition of industrial hemp. As the Court observed in *Jones*, the medical marijuana law expressly anticipated that patients would “‘consume [marijuana] by a method other than smoking,’” including in edible form. *Id.* at 455 ¶ 10 (citing A.R.S. §§ 36-2801(15) and 36-2805(A)(3)). Thus, “[t]aken together, these statutes indicate[d] AMMA’s intent to allow the manufacture and preparation of parts of the marijuana plant for medical use, including extracting the resin.” *Id.* at 455-57 ¶¶ 10, 16 (“Consideration of AMMA’s purpose and ballot materials support[s] this plain reading.”).

Jones’ plain import is that because AMMA legalized marijuana—an intoxicating substance—for certain purposes, it must be understood to have legalized a materially similar intoxicating extract of marijuana. Nothing in the case’s holding or reasoning supports its extension to the synthesis of an intoxicating product from a non-intoxicating product.

C. The industrial hemp law’s incorporation of federal law does not legalize delta-8.

The Farm Bill, by its express terms, does not “preempt[] or limit[] any” any state law that regulates hemp production “more stringent[ly]” than federal law. 7 U.S.C. § 1639p(a)(3)(A). Conversely, Arizona’s industrial hemp law provides that “[i]f authorized under federal law, the commercial production, processing, manufacturing, distribution and commerce of industrial hemp in this state is allowed outside of the agricultural pilot program.” A.R.S. § 3-312(E).

But Arizona’s incorporation of federal law in this provision is necessarily constrained by the term “industrial hemp,” as defined and limited under Arizona law. This definition, in turn, was based on the federal definition of industrial hemp in the 2014 law authorizing industrial hemp pilot programs to the extent authorized by state law. *See* 7 U.S.C. § 5940(a), (b)(2). Only later, in the 2018 Farm Bill, did Congress define “hemp” more broadly than it had defined “industrial hemp.”

Arizona courts “will not lightly divine legislative intent to displace state law with sweeping and prescriptive federal statutory law and administrative regulations.” *Roberts v. State*, 253 Ariz. 259, 266–67 ¶¶ 21-23 (2022) (construing statutory incorporation of federal law narrowly in the absence of “manifest intent” by legislature to incorporate federal law more broadly). Applying this principle here, § 3-312(E) is most reasonably understood to have anticipated that *industrial hemp*—as defined in Arizona, and as defined under federal law at the time—might later be permitted for uses outside a pilot program. This provision does not, however, manifest the legislative intent to broadly legalize “hemp”—as later defined by Congress, and as understood to arguably include intoxicating derivatives—under Arizona law.

Conclusion

For the reasons detailed above, this Opinion concludes that delta-8 and other hemp-synthesized intoxicants cannot legally be sold by entities that are not licensed cannabis sellers. Delta-8 is an intoxicating hemp-synthesized cannabinoid with a chemical profile and psychoactive effect materially similar to that of marijuana. Intoxicating cannabis products are Schedule 1 controlled substances that may be sold only by licensed cannabis sellers in Arizona. Arizona’s 2018 industrial hemp law did not create an exception to these laws. Rather, in contrast to the federal Farm Bill, the industrial hemp law omitted hemp “extracts” and “derivatives” from the definition of industrial hemp and expressly provided that the State wished to “maintain[] strict

control of marijuana.” Delta-8’s sale by unlicensed entities like convenience stores and smoke shops is therefore unlawful.

The Opinion, however, should not be construed as a general endorsement of the sale of hemp-synthesized intoxicants by licensed cannabis sellers. As is noted above, these products may pose public health concerns and information about these products is still emerging. Delta-8 is subject to Health Services’ regulatory oversight, and future regulatory decisions will necessarily be guided by evolving public health and safety information concerning this product class, as well as by particularized information regarding specific intoxicating hemp products and manufacturers.

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