

States Poised to Take Action on Hemp-Derived Cannabinoids in 2024

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Over the last several years, there has been a dramatic increase in retail and online sales of products containing hemp-derived and synthetically created cannabinoids. As a result, an increasing number of states are poised to take legislative action this year to regulate and curb sales of these novel products. Below is a brief overview of legislation that has been introduced on the state level this year.

California

On February 7, 2024, [Assembly Bill 2223](#) (AB 2223) was introduced in the California Assembly by Assembly member Cecilia Aguiar-Curry (D). Among other changes, the bill seeks to add a new term—“synthetically derived cannabinoid”—to California law, which would be defined as a substance that is derived from a chemical reaction that changes the molecular structure of any substance separated or extracted from the plant *Cannabis sativa* L. (excluding decarboxylation from a naturally occurring cannabinoid acid). The bill also amends the definition of “industrial hemp” to clarify that no product may contain “any synthetically derived cannabinoid.” The bill would strengthen California’s existing regulation of these substances, such as delta-8-THC, delta-10-THC, and THCA.

Nebraska

[Nebraska Legislative Bill 999](#) (LB 999), introduced by Senator Teresa Ibach (R) on January 5, 2024, seeks to clarify that CBD products that contain THC above legal limits, especially synthetic delta-8-THC and similar delta compounds, are illegal under Nebraska law. The bill would also turn over regulation of hemp cultivation from the Nebraska Department of Agriculture (NDA) to the U.S. Department of Agriculture (USDA). If LB 999 does pass, the NDA director will send a formal letter to USDA rescinding the state hemp plan, and Nebraska hemp producers would then be required to apply for a license to produce hemp under the USDA production program.

Florida

[Senate Bill 1698](#) (SB 1698), filed January 5, 2023, and [House Bill 1613](#) (HB 1613), filed January 9, 2024, seek to, among other things, limit the amount of delta-9-THC in hemp products to 2 mg per serving or 10 mg per container, whichever is less. These bills also create a new term, “Total delta-9-tetrahydrocannabinol concentration,” defined as a concentration calculated as follows: $[\text{delta-9-tetrahydrocannabinol}] + (0.877 \times [\text{delta-9-tetrahydrocannabinolic acid}])$. To be considered legal “hemp” under the proposed law, products in

Florida may not contain more than 0.3 percent total delta-9-THC, effectively banning products with high amounts of THCA. Under the legislation, legal “hemp” extract also may not include any “synthetic or naturally occurring versions” of controlled substances “such as delta-8-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, hexahydrocannabinol, tetrahydrocannabinol acetate, tetrahydrocannabiphorol, and tetrahydrocannabivarin.” The bills would also expand restrictions on advertising and packaging for hemp products.

South Dakota

[House Bill 1125](#) (HB 1125), introduced in the South Dakota legislature on January 22, 2024, seeks to ban the sale of hemp-derived products that have been chemically modified or converted, which would include compounds such as delta-8-THC and delta-10-THC. HB 1125 introduces a new term—“chemically derived cannabinoid”—defined as “a chemical substance created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.” (This new term “does not include cannabinoids produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.”) Although compounds such as delta-8-THC and delta-10-THC are naturally occurring in the cannabis plant, they occur in such low amounts that marketable products containing usable amounts of these compounds are usually created by converting one or more other cannabinoids into delta-8- or delta-10-THC through a process called isomerization. Thus, South Dakota’s new law, if passed, would make these “chemically derived” cannabinoids illegal in the state.

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