



Virginia's Regulatory System for Hemp-Based Intoxicants

In 2020, Virginia lawmakers in the House and Senate passed legislation related to the production and sale of hemp extracts intended for human consumption.^[1] Given the timing, it is likely the measure was aimed at the emerging interest in non-intoxicating CBD. However, the language of the law directly invokes the federal definition and limitations related to THC, and state agency rules went into effect as of August 15, 2022, seeming to allow for intoxicating isomers of THC. Delta-8 and others are considered legal in the state today as a result.

Virginia's system of regulations is modest, and strongly suggests lawmakers did not fully anticipate intoxicating products from hemp. Of particular concern is the lack of a statewide age limit requirement for intoxicants. Until state lawmakers respond, local municipalities may need to adopt their own provisions limiting access to adult consumers.

The law related to hemp can be found at the bottom of [this webpage](#), and the rules adopted by the agency with regulatory authority can be [found here](#) starting on page 2696. Here is a summary of the state's provisions:

Regulatory agency

The Virginia Board of Agriculture and Consumer Services serves as the primary regulatory agency.

Testing requirements

- State regulations invoke existing testing standards which apply to any cannabis product sold in the state, established elsewhere in Virginia law.^[2]
- In addition to the cannabis testing requirements, there is an additional list of residual solvents which must not be present beyond specific trace levels, also provided in rules.^[3]
- Batch testing requirements and conflict of interest prohibitions are also imposed by the agency.

Product limitations

- Products must be in a tablet, capsule, powder, softgel, or gel cap form.
- They must be labeled with a panel titled "Supplement Facts."
- Products must be labeled with a statement that describes the role of each nutrient or ingredient intended to affect the structure or function in humans or that characterizes the documented mechanism by which a nutrient or ingredient acts to maintain such structure or function.

Licensing requirements

There are no licensing requirements for manufacturers or retailers; instead, the agency defers to local rules adopted in the location in which such manufacturing occurs.

Age restrictions

Currently, there are no age restrictions for intoxicants.

Criminal penalties

No penalties are provided within the hemp-related sections of the law discussed here. With hemp otherwise removed from the state's controlled substances list, it is not clear what criminal penalties might apply for producing, importing, or selling intoxicants in violation of the hemp provisions.

^[1] See Article 5. Industrial Hemp extract; approved food.

<https://law.lis.virginia.gov/vacode/title3.2/chapter51/#article5/>

^[2] 18VAC110-60-300. Laboratory requirements; testing.

<https://law.lis.virginia.gov/admincode/title18/agency110/chapter60/section300/>

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