



## Legal Challenges Initiated by Hemp Intoxicants Interests

### Introduction

Across the United States, synthetic THC industry stakeholders—including producers, manufacturers, and retailers—are actively challenging state efforts to regulate hemp-derived intoxicating products like delta-8 THC. In numerous states, these businesses are filing lawsuits against state governments and agencies to contest regulations that restrict or prohibit the sale of these products.

The common thread in these cases is the argument that state regulations are preempted by the federal **Agriculture Improvement Act of 2018 (the 2018 Farm Bill)**, which legalized hemp and its derivatives containing less than 0.3% delta-9 THC on a dry weight basis. Plaintiffs often claim that state laws:

- **Conflict with Federal Law:** They argue that stricter state regulations are preempted by the 2018 Farm Bill.
- **Violate Constitutional Rights:** Allegations include infringement of the Commerce Clause by unduly burdening interstate commerce and violations of due process and equal protection under the law.
- **Exceed Regulatory Authority:** Some suits contend that state agencies have overstepped their legal bounds by enacting or enforcing regulations not envisioned by federal law.

These cases span across multiple states—including Indiana, Arkansas, Virginia, Pennsylvania, Florida, Alaska, Texas, South Dakota, Iowa, North Carolina, Tennessee, California, Oregon, Minnesota, Colorado, and Wisconsin—and reflect a nationwide pattern of legal challenges. The lawsuits typically seek injunctions to halt the enforcement of state laws and regulations that limit intoxicating products claiming to be hemp.

## **Alaska**

*AK Industrial Hemp Association, et al. vs. Alaska Department of Natural Resources, et al., 3:23-cv-00253-SLG*

The state imposed restrictions on hemp products with psychoactive chemicals, limiting sales to the regulated marijuana program. Plaintiffs sued, arguing preemption, interference with interstate commerce, and other constitutional violations. In a December 27 order, U.S. District Judge Sharon L. Gleason denied the motion for a preliminary injunction, finding the plaintiffs were unlikely to prevail on their claims. The case is ongoing.

## **Arkansas**

*Bio Gen, LLC et al., v Sarah Huckabee Sanders, et al., 4:23-CV-00718-BRW*

In 2021, Arkansas adopted Act 629, categorizing hemp-derived intoxicating products as controlled substances. Petitioners, hemp intoxicants producers, and retailers sought to enjoin the state from enforcing Act 629, claiming federal preemption under the 2018 Farm Bill. The court awarded a preliminary injunction on September 7, 2023, and the state has appealed. ATACH filed an amicus brief supporting the state's position. The preliminary injunction remains in place while the appeal is pending. The case is ongoing.

## **California**

*Valley Greens Retail Outlet, et al. v. Savage Enterprises, et al.*

California Superior Court

September 2023

Plaintiffs in this lawsuit are challenging the sale of hemp intoxicating products with delta-9 THC levels exceeding 0.3% on a dry weight basis. They argue that these products are outside the definition of legal hemp under federal law and claim the products are misleadingly advertised. The case is ongoing in the California Superior Court.

## **Colorado**

*United States v. \$3,242,700.00 in Funds Seized from Bank Account No. XXXX, et al.*

U.S. District Court for the District of Colorado, Case No. 1:22-cv-01562

While not a direct challenge initiated by hemp businesses against state regulations, this federal case involves the seizure of funds from a hemp company engaged in the

sale of delta-8 THC products. The company is contesting the seizure, arguing that their activities are legal under the 2018 Farm Bill. The outcome of this case could have significant implications for the hemp industry's financial transactions related to delta-8 THC products.

### **Indiana**

*3C, LLC d/b/a 3Chi, et al., v. Attorney General Todd Rokita, et al., 1:23-CV-1115-JRS-MKK*

In 2018, Indiana adopted a provision allowing the production and sale of “low THC hemp extract.” In 2022, Indiana State Attorney General Todd Rokita published an Official Opinion stating such products were controlled substances under state law. 3Chi, a hemp-intoxicants manufacturer, initiated an action claiming the Official Opinion violates state law and is preempted by the Farm Bill. The plaintiff seeks to enjoin the state from acting on the Official Opinion. The case is ongoing.

### **Louisiana**

*Hemp Association of Louisiana, et al., v. Gov. Jeff Landry, et al., Case No. 3:24-cv-00871 (MD LA)*

In October 2024, the Hemp Association of Louisiana and Cypress Hemp LLC, a wholesaler and retailer of hemp-derived products, filed a lawsuit against the State of Louisiana, Governor Jeff Landry, Attorney General Liz Murrill, and Baton Rouge District Attorney Hillar Moore III. The plaintiffs are challenging Louisiana’s Act 752, which amended the state’s definition of “industrial hemp,” effectively recriminalizing certain hemp-derived cannabinoid products that had been legal under federal and state law for years. The plaintiffs argue that Act 752 is preempted by the 2018 Farm Bill, violates the Commerce Clause of the U.S. Constitution, and infringes on their due process rights. The complaint highlights that the new law threatens to dismantle the hemp industry in the state, leading to job losses and turning business owners into criminals overnight. The plaintiffs are seeking a temporary restraining order, a preliminary injunction, and a ruling that the law is unconstitutional. The case is ongoing.

### **Minnesota**

*Minnesota Hemp Association, et al. v. Minnesota Department of Agriculture, et al. Ramsey County District Court, Case No. 62-CV-22-3950*

In 2022, following Minnesota's enactment of stricter regulations on hemp-derived THC products, the Minnesota Hemp Association and several businesses filed a lawsuit against the state. The plaintiffs contended that the new law, which limits the amount of THC in hemp products and imposes age restrictions, conflicts with the 2018 Farm Bill and unduly burdens interstate commerce. The court has yet to issue a ruling on preliminary injunction motions, and the case remains active.

### **North Carolina**

*Anderson v. Diamondback Investment Group, LLC, No. 23-1400 (4th Cir. 2024)*

Tonya Anderson sued Diamondback for disability discrimination under the ADA and North Carolina law after her termination for THC-positive drug tests. In its ruling, the court, in dicta, noted that synthetic THC products are "federally legal," aligning with the AK Futures court's interpretation. This acknowledgment effectively underscored the ongoing legal ambiguity surrounding synthetic THC's status under federal law. The Fourth Circuit affirmed the district court's decision in favor of Diamondback.

### **Oregon**

*Panda Farms LLC v. State of Oregon, et al.*

Marion County Circuit Court, Case No. 22CV19101

In 2022, Panda Farms LLC and other hemp businesses filed a lawsuit against the State of Oregon challenging new regulations that placed strict limits on hemp-derived cannabinoids like delta-8 THC. The plaintiffs argued that the state's actions were preempted by the 2018 Farm Bill and violated interstate commerce provisions. The court denied the plaintiffs' request for a preliminary injunction, allowing the state to enforce its regulations.

### **Pennsylvania**

*Smooth Vape, LLC, v. Lancaster County, Civil Case No. 23-3000*

In 2023, Smooth Vape, LLC filed a lawsuit against Lancaster County, Pennsylvania, after a raid and product seizure. The plaintiff argued this violated the Fourth Amendment and federal hemp laws. In March 2024, the court partially granted the defendants' motion, dismissing claims against Lancaster County but allowing the illegal search and seizure count against individual defendants to proceed. The case is ongoing.

## **South Dakota**

*Hemp Quarters 605 LLC v. Governor Kristi Noem, et al., 3:24-CV-3016 (SD SD)*

Plaintiff Hemp Quarters 605, a Delta-8 THC product manufacturer, filed an action to enjoin HB 1125, which prohibits the sale of synthesized hemp cannabinoids. They argue the law interferes with interstate commerce and preemption. The case is ongoing.

## **Tennessee**

*Tennessee Growers Coalition, et al. v. Tennessee Department of Agriculture*

Davidson County Chancery Court

September 11, 2024

The Tennessee Growers Coalition and hemp businesses filed a lawsuit against the Tennessee Department of Agriculture, claiming the agency violated its own protocols and state law by implementing emergency rules that excessively regulate hemp-derived intoxicants like delta-8, delta-9, and delta-10 THC. The lawsuit also argues that these state actions conflict with the 2018 Farm Bill, which legalized hemp and its derivatives, and imposed restrictions not envisioned by federal law.

## **Texas**

*Rodkey v. Garland, et al., U.S. District Court for the Western District of Texas, Case No. 1:22-cv-00540*

In 2022, hemp business owner Rodkey filed a lawsuit against U.S. Attorney General Merrick Garland and the DEA after DEA agents, alongside local Texas law enforcement, raided his business and seized hemp-derived delta-8 THC products. The plaintiff argues that the DEA's actions were unlawful because the 2018 Farm Bill legalized hemp and its derivatives containing less than 0.3% delta-9 THC, which includes delta-8 THC products derived from hemp. The lawsuit alleges violations of constitutional rights, including unlawful search and seizure under the Fourth Amendment, and contends that federal law preempts the DEA's enforcement actions against legal hemp products. The case challenges the DEA's authority to regulate hemp-derived cannabinoids like delta-8 THC and is currently ongoing.

## **Virginia**

*Northern Virginia Hemp And Agriculture LLC, et al. v. Virginia, Case No. 1:23-cv-01177-LMB-IDD*

Petitioners in Virginia are seeking to enjoin the state from enforcing a law signed on April 12, 2023, defining intoxicating hemp derivatives as controlled substances. The lower court refused the petitioners' request to enjoin in October 2023, upholding SB 903 and allowing Virginia to continue its stricter regulations on hemp-derived intoxicants. The petitioners have appealed. ATACH filed an amicus brief supporting the state's position. The appeal is ongoing.

## **Wisconsin**

*Wisconsin Hemp Alliance, et al. v. Wisconsin Department of Justice, et al.*

Dane County Circuit Court, Case No. 2022CV000123

In 2022, hemp businesses in Wisconsin filed a lawsuit against the state's Department of Justice challenging interpretations that classify delta-8 THC as a controlled substance. The plaintiffs assert that delta-8 THC derived from hemp is legal federally and that the state's position hampers lawful commerce.

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## **NO LONGER ACTIVE**

## **California**

### **AK Futures LLC v. Boyd Street Distro, LLC, Case No. 21-56133 (9th Cir. 2022)**

AK Futures LLC, a manufacturer of delta-8 THC products derived from hemp, sued Boyd Street Distro for trademark infringement over counterfeit versions of its "Cake" brand products. The key legal question was whether delta-8 THC products are federally legal and thus eligible for trademark protection. The Ninth Circuit Court of Appeals ruled in favor of AK Futures, holding that hemp-derived delta-8 THC products containing less than 0.3% delta-9 THC are legal under the 2018 Farm Bill. This decision affirmed that such products are entitled to federal trademark protections. The case has concluded.

## **Florida**

*Just Brands, LLC v. Florida Department of Agriculture and Consumer Services, et al., 0:23-cv-62081*

The plaintiff, Just Brands, argued that Florida's interpretation of its hemp law was too broad and unduly burdened interstate commerce. After the district court denied injunctive relief, the plaintiff appealed to the Eleventh Circuit. However, the parties reached a settlement in May 2024, ending further proceedings. The terms of the agreement remain undisclosed.

## **Iowa**

*Climbing Kites LLC, et al., v. The State of Iowa, et al., 4:24-cv-202 (SD IA)*

Plaintiff Climbing Kites LLC, a low-dose THC beverage manufacturer, challenged new Iowa regulations restricting THC levels in consumable hemp products. After Judge Stephanie M. Rose denied the preliminary injunction, Climbing Kites LLC and Field Day Brewing Co. dropped their lawsuit. The case was dismissed, with both parties bearing their own attorney fees.

## **Kentucky**

Kentucky Hemp Association, Inc., et al. v. Quarles, Commissioner of the Kentucky Department of Agriculture, et al.

Boone County Circuit Court, Case No. 21-CI-00574

**This case is no longer active.** In 2021, the Kentucky Hemp Association and several hemp businesses filed a lawsuit against the Kentucky Department of Agriculture and law enforcement agencies. The plaintiffs challenged the state's actions of raiding stores and seizing delta-8 THC products, arguing that these products are legal under the 2018 Farm Bill. In February 2022, Boone County Circuit Judge Rick Brueggemann issued a ruling in favor of the plaintiffs, stating that delta-8 THC derived from hemp is legal under both federal and state law. The court granted a permanent injunction against the state, preventing the enforcement of laws that would criminalize delta-8 THC products derived from hemp. The state did not appeal the decision, and instead passed a regulatory program for hemp intoxicants.

## **Texas**

Hometown Hero CBD, LLC v. Texas Department of State Health Services, et al.  
Case No. D-1-GN-21-006174 (201st Dist. Ct., Travis County, Texas)

**This case is no longer active.** In 2021, the Texas Department of State Health Services (DSHS) updated its Controlled Substances Schedule to include delta-8 THC as a Schedule I substance. Hometown Hero CBD filed a lawsuit challenging this inclusion. The plaintiff argued that delta-8 THC derived from hemp is legal under the 2018 Farm Bill and that DSHS failed to follow proper rulemaking procedures. In November 2021, a Travis County judge granted a temporary injunction, preventing the state from enforcing the ban on delta-8 THC products. In May 2022, Judge Jan Soifer granted summary judgment in favor of the Texas Department of State Health Services (DSHS), and upheld the state's classification of delta-8 THC as a Schedule I controlled substance, effectively making the sale and distribution of delta-8 THC products illegal in Texas. The ruling dissolved the temporary injunction that had previously allowed Hometown Hero CBD and other businesses to sell delta-8 THC products in the state.