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Claim on Seized Hemp Shipment Barred, Showing Trickiness of Coverage

Written by William Rabb

International treaties preempt state-based legal actions, giving an air transport company an escape from claims on what a hemp producer said was botched paperwork for an overseas hemp shipment, a federal appeals court said.

The ruling by the U.S. 4th Circuit Court of Appeals last week highlights the trickiness of running – and insuring – cannabis- and hemp-related businesses, even as the industry continues to grow around the world.

“This is why people are nervous about hemp: because there’s a lot of variability and a fair amount of risk,” said Erich Schutz, cannabis national practice leader at Jencap, considered one of the top wholesale intermediaries. “There are a lack of controls, lack of regulations, lack of consistency. And with that comes all the nastiness that comes with businesses that don’t have a lot of controls.”

The appellate judges upheld a lower



Gulfstream jet landing in St. Moritz, Switzerland (Adobe)

federal court’s ruling that the Montreal Convention of 1999 precludes a lawsuit by a Portland hemp company, which claimed that the air carrier’s actions resulted in the seizure and destruction of the hemp product by federal authorities in 2020.

“Our rulings must be guided by the Montreal Convention which, under the Constitution, is part of ‘the supreme Law of the Land,’” Judge Robert King wrote for the three-judge appeals court panel.

The court documents do not indicate



A hemp combine harvester (Adobe)

if the producer or the air transport company were covered by insurance policies, and lawyers for both sides could not be reached for comment. But Schutz and other insurance experts said it's likely that any policies would have contained exclusions that barred coverage for federally illegal or "hot" higher-THC products. And coverage for international shipments of hemp, even if it's fully legal, is hard to come by, anyway.

"There's not a robust international coverage for hemp, when there should be because there are a number of operations that are multinational," Schutz said.

The legal action began four years ago when Portland-based We CBD, a producer and distributor of legal hemp

products, contracted with Planet Nine, a charter flight and cargo carrier, to transport 3,300 pounds of hemp to Switzerland. The transport cost topped \$147,000. The value of the product could be as much as \$1.3 million, according to a news [report](#) by The Charlotte Observer.

When the plane made a refueling stop in Charlotte, North Carolina, U.S. Customs authorities seized the 93 bags and later destroyed the contents. Testing showed that much of the hemp was above the 0.3% THC, or tetrahydrocannabinol, content allowed by federal law, the court opinion explained. While many U.S. states have legalized some form of higher-THC marijuana, federal law still prohibits it and other countries

have differing regulations on THC levels in hemp.

We CBD argued that Planet Nine had failed to file the proper paperwork with aviation authorities, paperwork that would have indicated that cargo was on board the business-class jet. Planet Nine's website shows it flies a number of aircraft, none larger than the 15-passenger Gulfstream G650.

When local law enforcement officers in Portland saw the bags being loaded onto the plane, after some seats had been removed, they became suspicious and alerted federal Customs agents in Charlotte. At that airport, Customs officials could see the cargo, which was in duffle bags and trash bags, through the windows of the airplane.

This seemed odd because the flight's paperwork did not mention any cargo being transported, the court explained. Agents moved in and removed the bags from the plane.

We CBD filed suit in North Carolina against Planet Nine, seeking compensation for the lost cargo. Planet Nine, a Van Nuys, California-based company, asked the court to dismiss the case, arguing that the Montreal Convention takes precedence.

That convention, the appellate judges explained, essentially replaced the War-

saw Convention of 1929. It holds that air carriers flying international routes are liable for damage to cargo and baggage that is sustained "during carriage by air." Claims must be made pursuant to the treaty.

But the convention also gives air carriers an escape clause, the court noted, if the air company can show that "the destruction, or loss of, or damage to, the cargo resulted from ...an act of public authority carried out in connection with the entry, exit or transit of the cargo."

The destroying of the hemp by Customs agents is considered an act by a public authority, the courts said.

We CBD, represented by attorney William Terpening, of Charlotte, had also argued that the convention did not apply because the paperwork was left out before the flight was underway, and the destruction of the hemp came later – meaning those actions fell outside the scope of "carriage by air."

But the appeals court said that argument was splitting hairs. Court rulings have long eschewed segmenting the precise event as long as it is part of the shipping or transport process.

"To rule otherwise would greatly diminish the ambit of the Montreal Convention and would concomitantly

‘encourage artful pleading by plaintiffs seeking to opt out of the Convention’s liability scheme’ — a result that the Supreme Court has counseled us to avoid,” Judge King wrote in the [4th Circuit opinion](#).

Further, the court said: “Even assuming Planet Nine had an obligation to submit the U.S. Customs documentation and improperly did so, the Cargo could not have been destroyed unless it was in international carriage by air.”

The types of issues raised by this case will likely continue for years to come, thanks to the variation between federal, state and international laws. Even when the hemp is found to be below the United States’ .03% THC threshold,

international shipments can be tricky, Schutz said. Some insurance carriers will provide coverage that allows up to .04%, but most don’t.

And the European Union requires a THC level of less than .02%, but other countries may be different. Switzerland, where the hemp in the We CBD case was headed, allows up to 1% THC for hemp to be considered legal, according to news reports and cannabis attorneys.

“This is where a good agent-broker comes in,” Schutz added. “You need to be able to overlay the regulations, the insurance contracts and what the heck your insured is actually doing. Make sure everything is inside the box.” ■

Cannabis Firm Fights Insurer's Denial of Business Income Loss Claim Following Fire

Written by Andrew G. Simpson

A Berkshire Hathaway insurer is insisting it does not owe \$1.3 million in claimed business income losses to a cannabis growing company after a building fire shuttered one of its “flowering” rooms for 68 days.

National Fire and Marine Insurance Co. and its insured, Theraplant, are at odds over what caused the claimed business income loss and, if there was a revenue loss, whether it had to occur within a certain time period.

National Fire denied the business loss claim stressing that its policy provides coverage for business income loss only if the loss is caused by a suspension of operations. It believes Theraplant’s business income loss was due to damage to marijuana plants, which the policy does not cover, and did not arise from a suspension of business.

Connecticut-based Theraplant contends that its claim is in fact due to a suspen-

sion of operations while it was unable to use its fire-damaged flowering room or equipment to develop crops for 68 days because the room was being restored after the fire. Furthermore, the insured argues, this suspension of production was due to the building fire, not due to the uninsured cannabis crops it lost.

Theraplant says the inability to operate the room and produce the product that was growing in the room resulted in lost income of \$1,354,593, which was calculated based on the net sales value of production. The policy states that for manufacturing risks, net Income includes the net sales value of production.

National Fire contends that the flowering room’s two-month unavailability had no effect on Theraplant’s production process and that the alleged losses came from its inability to sell products derived from the fire-damaged cannabis crops, property that is not covered

by the policy. Theraplant has conceded that all other product was sold in the normal course of business, and all other production areas were still used in the normal course of business, the insurer points out.

Restoration Period

National Fire also argues that a business loss has to occur during “period of restoration,” which begins 72 hours after the loss and ends when the building is repaired. Products derived from the damaged plants would not have been sold for at least four to seven months after the fire, the insurer maintains.

But Theraplant says that the policy does not say the business loss must occur within that restoration period. The policy provides coverage for the actual loss of revenue the insured sustains “due to” the “necessary suspension of operations” during the “period of restoration.”

Whereas the insurer argues that the phrase “due to” imposes a causation requirement, such that the business income loss is caused by the “suspension of operations,” not by some other loss, Theraplant disagrees. It says the term “during the period of restoration” modifies the term “suspension of operations” and it does not modify the term “actual loss of revenue.”

“There is nothing in the coverage agreement that requires the insured to demonstrate an actual loss of revenue during the period or restoration,” Theraplant asserts.

The insurer further argues in the alternative that if there is coverage for business income loss, a policy provision limits any recoverable business income payout per month to \$166,666.67, meaning the total loss could only be \$333,333.33 for 59 days.

Theraplant says that provision only applies to how much the insurer has to pay out per month and does not affect the \$1 million limit on business income losses.

The parties have filed dueling summary judgment motions in federal court in Connecticut.

2020 Fire

It all started on February 8, 2020 when a lamp in a light fixture exploded and caused a fire in the flowering room. The fire damaged walls, equipment, and 998 marijuana plants in the room. All operations in the room needed to be suspended until it was repaired and deep cleaned.

Theraplant’s insurance policy covers building and personal property damage, but does not cover damage to cannabis crops or products.

The parties have no dispute over National Fire’s payments for damage to Theraplant’s building and personal property. National Fire paid \$483,233.56 for the damage to Theraplant’s building and it paid \$12,482.31 for damage to Theraplant’s business personal property.

The parties’ sole dispute is over Theraplant’s claim for business income loss.

Theraplant was unable to use the damaged flowering room from February 8, 2020 until April 20, 2020. When the fire occurred, all of its six other flowering rooms were fully occupied with cannabis plants that were in the growth stage.

Claims Adjuster

In an initial report, the claims adjuster advised National Fire that he estimated Theraplant’s business income loss from the fire to be \$600,000. Later, the adjuster increased the amount to \$1,200,000 based on a report from National Fire’s forensic accountant. In June 2020, Theraplant submitted a business Income loss claim for \$1,354,593 based on an analysis performed by its forensic loss accountant.

Early on, National Fire acknowledged that Theraplant would likely file a business income loss claim. Between March

2020 and July 2022, National Fire continued to investigate Theraplant’s claim. In October 2020, National Fire issued a second reservation of rights letter informing Theraplant that the policy “may not apply to your claimed damage to your crop” because cannabis or marijuana is not considered “covered property” and that the business income loss claim “must be caused by or result from a covered cause of loss.”

In July 2022, more than two years after the fire, National Fire denied coverage for Theraplant’s business income claim because, according to National Fire, Theraplant did not identify a business income loss during the period of restoration for the damages to its building.

National Fire claims Theraplant is attempting to differentiate between sales income derived from the plants, on the one hand, and direct physical damage to the plants, on the other hand. “Theraplant attempts to circumvent the policy’s exclusion of marijuana crops and derivatives by casting its claim in terms of ‘lost sales value’ to attempt to trigger coverage under the business income provisions. However, this interpretation would render the policy’s crop exclusion and additional property not covered endorsement meaningless,” the insurer’s memorandum states.

Theraplant counters that the policy requires National Fire to pay net income that Theraplant would have earned but for the suspension of operations in the flowering room. “Under an all risk property policy such as the poli-

cy in this case, when the efficient cause of loss is a covered risk, coverage is not defeated merely because an excluded risk contributed to the loss or constituted the loss,” the insured concludes. ■

Medical Marijuana Law Does Not Impair Employers' Right to Drug-Free Workplace

Written by Andrew G. Simpson

A Connecticut employer has the right to terminate an employee who is impaired by medical marijuana in the workplace.

The Connecticut Appellate Court on March 19 upheld the dismissal of a lawsuit brought against a nonprofit preschool by a teaching assistant who used medical marijuana for treatment of her disability and was fired for violating the school's drug-free workplace policy by showing up for work impaired.

The court ruled that even though Connecticut has a law permitting use of marijuana for medical purposes, employers still "may prohibit qualifying patients from being under its influence in the workplace." According to the appellate court, employees making claims under Connecticut's Palliative Use of Marijuana Act (PUMA) must show that they were terminated solely because the employee had a prescription for medi-

cal marijuana.

The court also affirmed the right of an employer to seek a drug test of an employee when the employer has a "reasonable suspicion" that an employee is violating its drug free policy.

Prescriptions

Alyssa Bartolotta had a doctor's prescriptions for Valium and medical marijuana as part of treatment for her epilepsy. She did not inform her employer, Human Resources of New Britain, Inc., of her epilepsy or her Valium or medical marijuana use until after incidents at work.

She told her employer about her epilepsy and Valium only after she had a seizure at work. Thereafter, the school made some accommodations for her including letting her leave for the day whenever she had a seizure and assigning her to a room where she would

always be with another teacher.

The employer, however, declined her request to have the school nurse hold some doses of Valium on the premises for her in case she needed it. In denying her request, the school stressed its drug-free policy and that the part-time nurse was not authorized to administer medications. The school told her she could hold the Valium at work herself.

In an incident on January 2, 2019, after a fellow employee questioned her behavior at the school when she called a child by the wrong name, Bartolotta acknowledged that “her head was just not right” because she likely had ingested too much marijuana and the effects carried over into the workday. Her medical protocol called for her to take the drugs at 8 pm in the evening. Six days later she agreed to take a drug that ending up showing positive for Valium but negative for marijuana.

Termination

After first suspending Bartolotta, then conducting an investigation that revealed concerns of several other employees, and obtaining the drug test, the school terminated Bartolotta. The school concluded that Bartolotta signed and was aware of the drug-free policy and violated that policy by showing for

work in an impaired state, which she admitted in an interview. The school noted that Bartolotta did not disclose her medical marijuana use until an incident occurred and never requested an accommodation.

In terminating her, the school explained that her firing was not because of her epilepsy or her medical marijuana user status but for showing to work in an impaired state. Bartolotta said at the time that she understood the reason.

After the school’s grievance committee and board of directors both upheld her termination as proper, Bartolotta filed an employment discrimination complaint with the Commission on Human Rights and Opportunities. In her accompanying affidavit, Bartolotta alleged that the her employer “terminated her employment because of her disability” and “failed to accommodate her by prohibiting her from working while taking prescription medication for her disability.” The commission issued a release of jurisdiction over her complaint.

After that, Bartolotta sued Human Resources of New Britain, alleging violations of the state’s fair employment practices and medical malpractice laws, including unfair discrimination

and wrongful termination because of her epilepsy disability and her status as a medical marijuana user, and illegal drug testing. A trial court found she had no case and awarded her employer summary judgment.

Now the appellate court has upheld the dismissal of her suit and the actions of her employer.

Clams Denied

Bartolotta had signed an acknowledgment of the school's drug free workplace policy. In her deposition testimony, she admitted that she was aware that her employment could be terminated if she came to work impaired. But in her deposition she maintained that she was not impaired when the incident occurred on January 2, and that taking medical marijuana "does not make her impaired." She further averred that the results of the drug test conducted six days after the January 2 incident proved that she didn't come to work impaired.

In dismissing her complaint, the appellate court stressed that the state's medical marijuana law contains language making clear that it shall not restrict an "employer's ability to prohibit the use of intoxicating substances during work hours or restrict an em-

ployer's ability to discipline an employee for being under the influence of intoxicating substances during work hours."

The appellate court noted that the written disciplinary notice issued by school stated that, during an interview on January 8, Bartolotta admitted that she uses medical marijuana, did show up to work impaired, and she may be abusing it. In addition, during multiple phone calls with the school's human resources director, she did not deny showing up to work impaired.

Noting that the employer's notice concluded that her employment was being terminated because she "failed to follow company policy and procedures" regarding drug and alcohol use in the workplace, the court dismissed her claims that she was fired because of her disability or her medical marijuana use for lack of evidence.

'Bald Assertion'

Bartolotta's complaint stated that "terminating an employee for using medication for a disability is the equivalent of terminating an employee because of her disability." However, the court found she provided "no legal authority for that bald assertion, which runs contrary to the plain language" of the law.

Bartolotta also failed to provide any legal authority to support the proposition that she should have been allowed to use her medical marijuana during the workday or to appear at the pre-school facility in an impaired state.

The court found that the school's denial of Bartolotta's requested accommodation regarding holding the Valium was reasonable, and that neither Bartolotta nor her doctor ever requested an accommodation for her medical mar-

ijuana use. In addition, the court said it is unclear what—if any—accommodation the school could make “short of allowing her to appear impaired in the workplace.”

Finally, the court found that in light of reports by other employees of her behavior and her own admission of showing up to work impaired, Human Resources of New Britain had the requisite “reasonable suspicion” under the state law to request a drug test. ■

Texas Lawmakers Zero In on Exploding Hemp Industry

Written by Karen Brooks Harper, The Texas Tribune

Austin hemp entrepreneur Shayda Torabi is looking at a year filled with uncertainty.

For the six years they've been in business, Torabi and her two sisters have operated Restart, their hemp dispensary, in a modest neighborhood in North Austin within an entirely lawful framework — evolving as the laws changed, and staying comfortably and legally off the radar of state lawmakers who authorized the sale of consumable hemp in Texas in 2019.

But all of that is about to change.

Some Texas lawmakers have marked hemp dispensaries for what could be some radical changes in regulations next year. Since their products were legalized, there's been an overnight proliferation of shops offering baked goods, gummies, oils, and smokable buds made with cannabis derivatives — some containing small amounts of psychoactives.

Once the darling of a burgeoning wellness industry, the purveyors of legal cannabis products now face questions from critics who remain unconvinced of the safety of their products and want tighter regulations — or even partial bans.

Consumable hemp products come in forms that include smokable vapes and flower buds, oils and creams, baked goods, drinks, gummies and candies.

They contain industrial hemp or hemp-derived cannabinoids, including the non-intoxicating cannabidiol known as CBD. They may not contain more than 0.3% concentration of tetrahydrocannabinol, or THC, the intoxicating part of the cannabis plant that comes in forms known as delta-8, delta-9 and THCA.

The difference in the legal and illegal products lies in the plants from which they come. Hemp and marijuana plants are both cannabis plants. Marijuana plants have high THC. Hemp has low THC.

Texas is one of about a dozen states that has not legalized marijuana in any form for broad use.

But thousands of dispensaries in Texas are selling hemp-derived products that look, taste and sometimes intoxicate similar to their more potent sibling. They've sprung up in recent years through loopholes in state and federal law that allow them to sell their low-THC products with no age limits, loose and inconsistent testing requirements, and no limit on the number of licenses allowed in the state. And it's happening amid a series of oft-changing statutes and court decisions that throw retailers, advocates, police, prosecutors and parents into confusion over what's actually legal to buy, sell, possess and consume.

Since consumable hemp was legalized in Texas, the number of retail registrations for consumable hemp products has exploded in the state.

In 2020, the first year the Texas Department of State Health Services began registering retailers, some 1,948 retailers were actively registered. By 2023, that number had jumped to 8,343. And in the first four months of 2024, the state has already seen more than 7,700 active registrations.

Last month, Republican Lt. Gov. Dan Patrick ordered the Texas Senate to

look into potentially banning the hemp products that contain THC, and investigate strict regulations for retailers across Texas. A hearing is scheduled for later this month.

There is no similar charge for the more business-friendly Texas House, which voted last year to expand the state's medical marijuana program in legislation that also would have regulated the dispensaries.

That bill never got a vote in the Senate, the result of a political maneuvering over unrelated issues and a decided lack of interest in expanding weed laws in the conservative upper chamber.

Because it's a Patrick priority, it's likely to come up when lawmakers convene in January for the regular legislative session. Meanwhile, Congress is getting ready to reauthorize the Agricultural Improvement Act of 2018, also known as the Farm Bill, that instituted widespread changes for the hemp industry, including the authorization of the sale of intoxicating hemp-derived products.

So far, the latest U.S. House and Senate versions of that bill — which both propose to loosen barriers for industrial hemp farmers — leave out any changes that would address either the increasing calls by critics for limits on dispensaries or pushes by advocates for wider

access. But further changes could come before the legislation gets a vote later this year.

Torabi, the Restart brand owner and president of the Texas Hemp Coalition, said she is looking for some clarity and support from both Austin and Washington.

“We’re now seeing the hemp conversation not just in Texas, but nationally, show the pathway for how we can access this plant and really, ultimately help consumers who are seeking relief with cannabis products,” Torabi said. “We’re watching and waiting to see what happens next.”

The state does not limit the number of dispensary registrations or hemp licenses it allows. Health officials conduct random testing for the presence of heavy metals, pathogens, pesticides, solvents and the concentration of THC.

Retailers must pay an annual fee of \$155 per location. License holders are on the hook for additional required state fees.

Torabi’s cannabis dispensary sells hemp-derived gummies, oils, edibles and smokable plant buds that are marketed as having wellness benefits like decreased depression or stress relief. While federal drug officials have approved the use of a seizure medi-

cine that contains CBD, most of the hemp-derived products are not regulated by the federal government.

Her products contain either CBD, or low-concentration cannabinoid THC derivatives like THCA, delta-9 and delta-8. Some products are combinations of those.

Some regulations that would keep her industry legit would be welcome, Torabi said.

“It is the wild, wild West out there, and I can imagine you’d throw a stone in any direction and find not only new CBD products but the expansion of psychoactive cannabinoids,” said Torabi, who sells both types. “And it’s a double-edged sword. It’s great that we’re giving access to these products where the consumers are, but the lack of regulation is really the crux of the conversation.”

The presence of bad actors who could trigger regulations that drag down legitimate operations not only threaten the very existence of her business if they cause a total ban on her products, Torabi said.

They also ruin the reputation of people like her and the products she passionately believes in after she used CBD, at her mother’s urging, to deal with chronic pain after she was hit by a car as a pedestrian in downtown Austin years ago, she said.

And while it's true that consuming low-quality, unregulated products from unscrupulous retailers can be uncomfortable or unsafe for users, the customers coming to Restart to purchase high-quality CBD and low-dose THC products consistently tell her how they have helped them with issues like inflammation, insomnia, depression and similar benefits, Torabi said.

"We share the same concerns as Patrick, which is why we really do try to self-regulate as much as possible because we see where there can be malintent or taking what the intent was and twisting it," she said. "It's a challenging place to be in because I do empathize with the state's concerns, but the transformative conversations that we're having on a daily basis are just so powerful, and those shouldn't be overlooked."

The wellness benefits claimed by purveyors of hemp-derived consumables have been neither endorsed nor refuted by the U.S. Federal Drug Administration. Federal drug enforcement officials recently signaled that marijuana, would soon lose its status as a Schedule 1 narcotic — which are drugs that are highly addictive but have no medicinal value — and become eligible for broad research on its medicinal effects.

That's not an opening for legal pot or

any other changes in Texas, but it does bolster the argument that cannabis in whatever form it takes can have uses beyond industrial rope and intoxicating party drugs, advocates say.

"We're simply asking Dan Patrick to not eliminate the market but to further regulate and lean on organizations like ours, and to lean on leading operators like myself at Restart, to really understand and become educated," Torabi said.

The state's miniscule medical marijuana program, the Compassionate Use Program run by the Texas Department of Public Safety, has about 12,000 enrollees and a short list of conditions that would qualify a resident to buy low doses of marijuana in either edible or oil form.

Texans with a variety of conditions — such as epilepsy, autism, cancer and post-traumatic stress disorder — can access cannabis oil from marijuana plants with less than 1% THC. Medical cannabis can treat the symptoms of some of these diseases or reduce the side effects of other treatments, such as alleviating the nausea and loss of appetite associated with chemotherapy or reducing nightmares in patients with PTSD.

It is legal to buy and use most smokable hemp products such as flower or vape cartridges with CBD, THCA and

delta-8. The smokable version of delta-9, a hemp derivative which has a higher THC level than delta-8, is illegal in Texas.

All hemp derivatives can be legally sold in oils, creams, gummies, sodas, candies, coffee and other consumables that retailers like Torabi stock in storefronts, convenience stores, breweries, coffee shops, trailers and online.

Consumable hemp was made legal by the federal Farm Bill in 2018 and in Texas, the following year by House Bill 1325, which Gov. Greg Abbott signed into law.

Critics say that because consumable hemp stores have been allowed to sell their products without stringent testing requirements, age limits or other regulations, they pose a health risk and their extreme growth in numbers has undercut access by the patients who truly need cannabis for health reasons.

They want lawmakers to enact age restrictions, on-site or in-state testing requirements, regulations on the ingredients and changes to how the psychoactive ingredients in the consumable hemp products are measured by state regulators.

States like Colorado, where both medical and recreational marijuana are legal, are putting tighter restrictions

like these on those products as a way to reign in access and force more health and safety accountability on the consumable hemp industry.

Many of the current retailers, including Torabi, put some of these restrictions on themselves. All of Restart's non-smokeable products are produced in Texas, including some handcrafted in her hometown of Austin. Her shop does not sell to anyone under the age of 21 for delta-8 and delta-9 products and 18 for CBD products.

Nico Richardson, CEO of Texas Original, the leading medical cannabis provider in the state, is frustrated that his operation, which his medical marijuana patients depend on for relief from symptoms of cancers and nerve disorders among other ills, is hindered by enormous regulation while businesses like Torabi's are not.

For example, since he can only store his inventory in one location under Texas law, it gets ferried back and forth across the state at Richardson's company's expense. If a patient in the medical marijuana program in El Paso doesn't pick up an order, Richardson's staff has to drive to that city and bring that order of medical grade cannabis product back to Austin — a huge expense as well as an enormous waste of staff resources, he said.

“On the way, my driver passes probably 1,500 hemp dispensaries dealing delta-8 and delta-9 with no restrictions, and it’s everywhere in the state,” Richardson said. “Am I upset about that? Yes. I think it’s absolutely horrendous.”

Texas Original is one of two medical marijuana providers in Texas and serves the vast majority of the patients on the state program, Richardson said.

“You have patients in Texas that have gone through the process in the compassionate use program to get clean, well-tested, well-regulated medicine that is safe. That’s what they’re coming into the program for, and that’s what we’re trying to provide them,” Richardson said.

But that system will not survive if the hemp industry is not reigned in, he said. People are too easily convinced that all consumable hemp products are safe because they can buy them in the gas station or because they were at some point tested before they were sold, he said.

“It is complete and utter gaslighting,” Richardson said.

Lawmakers have instituted regulations beyond basic licensing fees and requirements in place, such as a restriction that the products can’t contain more than 0.3% THC by weight and that retailers have records showing

that the products have been tested to confirm those numbers. But there is no guidance, for example, on how recently a product should have been tested, even though the amount of THC in a product can increase over time due to degradation and environmental factors.

Short of seeing a shutdown of the entire hemp industry, Richardson said tighter industry regulations “are long overdue.”

“It was never the intent here in Texas, and it certainly was never the intent for the 2018 federal Farm Bill, that you’d have a massive industry of — let’s call it what it is — intoxicating hemp derivatives. It’s marijuana by another name,” he said. “That’s certainly not how the system was supposed to run.”

Near the end of May, the Texas Senate State Affairs Committee will hear public testimony about the issue. Both Richardson and Torabi plan to be there.

Torabi envisions a movement that would join people like her and Richardson — currently at odds in the fight — to craft a regulatory framework in Texas that allows access to all cannabis products, from low-dose CBD to medical grade pot to maybe even recreational legalization.


But what Torabi sees now is an opportunity for the pro-cannabis community

to be a national leader in treating the plant as a tool for wellness, in whatever form it can be delivered.

“It’s not like we’re legalizing cannabis, and it’s going to be a free-for-all, and there’s no rules and checkpoints — that’s absolutely not what we’re asking for,” Torabi said. “We’re just asking for inclusion, legitimacy and the acceptance that this is not something that you can keep

dismissing as a conversation.”

This article originally appeared in The Texas Tribune at <https://www.texas-tribune.org/2024/05/14/texas-senate-hemp-marijuana/>.

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California Department of Cannabis Control Recalling Mike Tyson Cannabis Product

The California Department of Cannabis Control a mandatory recall for former Heavyweight Champion Mike Tyson's branded cannabis product, Tyson Undisputed Cannabis Flower, due to a contamination with mold.

The mold in question is *Aspergillus* sp., and the recall affects multiple products sold after Aug. 24, 2023, including the TOAD and TADPOLES batches, distributed across several counties in-

cluding Alameda, Los Angeles, and San Francisco, [the industry website Ganja-preneur is reporting](#).

The flower was grown by manufacturer Northern Emeralds. This incident follows on the heels of other recent product recalls in California's cannabis industry, which has been plagued this year by issues related to both product safety and testing integrity, according to the website. [📰](#)

Nevada Issues First License for Recreational Cannabis Lounge in Las Vegas

Nevada regulators have issued the first license to operate a lounge where cannabis can be consumed recreationally, marking the first of what are expected to be dozens of such operations.

The state Cannabis Compliance Board announced that the license was awarded to a business in Las Vegas following an inspection by agents earlier this week. The lounge — dubbed Smoke and Mirrors — is owned by Thrive Cannabis Marketplace, the state’s largest independently owned cannabis business.

There are currently 19 lounges that have been approved by the compliance board for a conditional license. A final inspection will be required before a license is granted and they can open to the public.

It’s been years since Nevada voters first approved legalizing recreational cannabis. In 2021, lawmakers cleared the way for business owners to apply

for licenses to establish on-site consumption lounges.

The state’s cannabis industry had promoted the lounges for their economic development potential and pitched them as a draw for tourists who visit Las Vegas annually but can’t legally use the products in places like hotels.

Thrive Cannabis Marketplace officials said their consumption lounge will open to the public in late February. It will have a range of products for customers — including cannabis-infused cocktails — and will serve as a hub for artists and musicians to showcase their work.

“It’s more than a venue, it’s a platform for the cannabis industry as a whole, where tourists and locals alike can be a part of a new chapter in the evolution of hospitality,” said Chris LaPorte, managing partner of RESET, a Las Vegas-based cannabis hospitality company. ■

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