



## **ATTENTION DELAWARE RETAILERS: HEMP PRODUCTS & THC LIMITS**

### **YOUR RESPONSIBILITY, YOUR LIABILITY, YOUR RISK**

Selling illegal hemp-derived consumables or inhalants places children, teens, and unsuspecting adults at risk. The lack of safety regulations surrounding these products poses a significant risk to your community, as the products often lack rigorous testing, labeling, and potency standards.

Because of these safety concerns, selling illegal hemp-derived consumables or inhalants comes with severe civil and criminal liability. If you're selling any product marketed as hemp gummies, vapes, edibles, oils, tinctures, or flower, you must ensure the product is lawful and safe under both Delaware and Federal law.

### **RECOMMENDED TESTING & DOCUMENTATION FOR YOUR PROTECTION**

Delaware retail store owners should demand the following from any supplier or distributor of THC hemp products:

**USDA – certified, DEA-registered, or independently accredited laboratory results confirming each batch of product:**

- Contains less than 0.3% Delta-9 THC concentrate on a dry weight basis (see required calculation below), and
- Contains zero synthetic cannabinoids or hallucinogenic substances, including isomers and derivatives of THC not naturally occurring in the hemp plant.

**Do NOT accept:**

- Certificates of Analysis (COAs) from in-house or unaccredited labs
- COAs missing THC-A values or dry-weight conversions
- "QR-code-only" or summary reports without full lab data

**Red flag:** Suppliers unwilling to provide proper documentation are likely selling illicit products.

### **YOU ARE LIABLE UNDER DELAWARE LAW**

As a retailer, you will be held accountable for any unlawful products sold in your store, regardless of what your supplier claims. Products that contain more than .03 of Delta-9 THC concentrate are still illegal regardless of whether the source plants are hemp or marijuana. Please see Delaware Title 16 section 4701(28), Delaware Title 3 section 2801(2), and Delaware Administrative Code Title 3 section 805-3.0 for the relevant Delaware laws on this subject.

## **DELAWARE’S LAW FOR CALCULATING POST-DECARBOXYLATED DELTA-9 THC**

“Total THC is defined as the sum of the percentage by weight of delta-9 THC and 87.7% of the THC-A content. This reflects the potential conversion of THC-A into delta-9 THC during decarboxylation (heating).” — USDA Final Rule, 7 CFR Part 990

### **Delaware Formula:**

Total Post-Decarboxylation **Delta-9 THC = (% Delta-9 THC) + (0.877 × % THC-A)**

If this total exceeds 0.3% per dry weight, the product is prohibited from being sold outside a licensed facility and must follow strict health and safety guidelines.

### **Example:**

For example, your supplier offers a hemp derived flower product for you to sell at your business. The label claims it contains 0.2% delta-9 THC, which falls just under the legal limit of 0.3% by dry weight. But the same product also contains 0.9% THC-A—the non-psychoactive precursor to delta-9 THC. Here’s the problem: THC-A readily converts to delta-9 THC when exposed to heat in a process called decarboxylation. This transformation can happen with something as simple as adding heat, leaving the product with a total effective delta-9 THC content that far exceeds what’s considered legal or safe.

Using the USDA and Delaware formula, for determining Total Post-Decarboxylation THC Delta 9, 0.9% THC-A becomes roughly 0.79% delta-9 THC when decarboxylated ( $.09 \times .877$ )— bringing the total delta-9 content of that product to nearly 1% ( $.2\% + .79\% = .99\%$ ), more than three times the legal limit under Delaware and Federal law. In this scenario, this product is an illegal controlled substance.

## **PENALTIES FOR ILLEGAL SALES**

Under Delaware law, the sale or possession of illegal marijuana or synthetic THC products may result in:

- Misdemeanor or felony criminal charges
- Civil penalties
- Loss of business licenses
- Seizure of products and assets

## **PROTECT YOURSELF**

- Require fully documented, batch-specific certified lab results
- Keep copies on file for every batch of product you sell.
- Consult with an attorney familiar with Delaware hemp law

**Protect your business. Protect your licenses. Protect your Community -  
Know your products.**