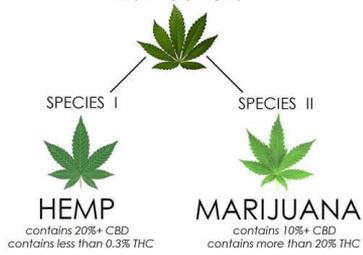


HEMP, CBD AND NORTH CAROLINA LAW

Phil Dixon
UNC School of Government
Fall 2019

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CANNABIS HAS TWO SPECIES



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HEMP ≠ MARIJUANA

- G.S. 90-87 (16) defines marijuana under state law

“Industrial hemp, as defined in G.S. 106-568.51, when the industrial hemp is produced and in compliance with the rules issues by the North Carolina Industrial Hemp Commission” is specifically excluded from the definition.

3

G.S. 106-568.51(7) -
DEFINITION OF INDUSTRIAL HEMP:

- All parts of the cannabis plant grown by a licensed grower that has no more than a 0.3% THC content.
 - Grower must be licensed by NC Hemp Commission
 - THC content determined from dried plant material

4

THIS IS SIMILAR TO THE CURRENT FEDERAL
DEFINITION:

7 U.S.C. 5940 (2): ALL PARTS OF CANNABIS SATIVA
WITH NO MORE THAN .3 % THC ON DRY WEIGHT BASIS

- SPECIFICALLY EXEMPTED FROM FEDERAL
DEFINITION OF "MARIHUANA" IN 21 U.S.C. 802 (16)

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DOES THAT MEAN
YOU CAN GROW IT?



Not without a license from the N.C. Hemp
Commission.

6

SO CAN YOU LEGALLY POSSESS IT?

Yes*, assuming it's a lawful hemp product—grown in NC by a licensed grower, and containing no more than .3 % THC on a dry weight basis.

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HEMP =



Around 170 million dollar industry in 2016.

Expected to hit a billion per year by 2021.

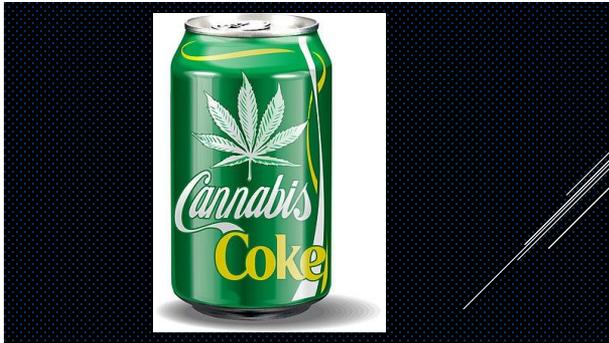
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BY CONTRAST, THE LEGAL MARIJUANA INDUSTRY IN THE U.S.

--Around 4.7 billion for medicinal marijuana in 2016, with another 2 billion or so in legal recreational marijuana.

--Medical (only) projected to expand to 13 billion by 2025.

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Um, yes...I have a question

HOW CAN YOU TELL IT APART FROM MARIJUANA?

Great question, let's take a look . . .



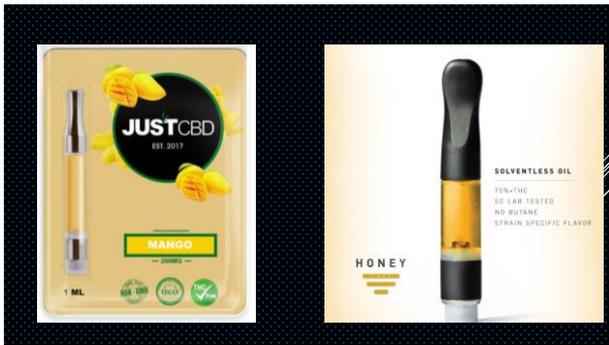
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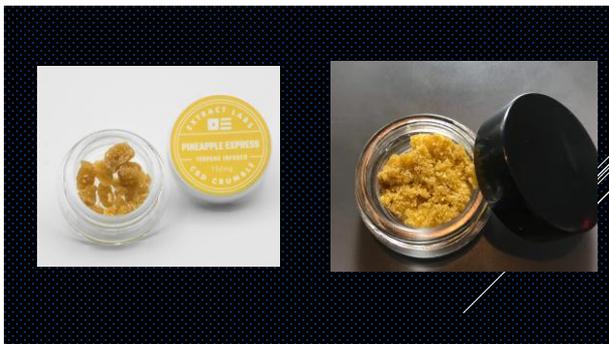
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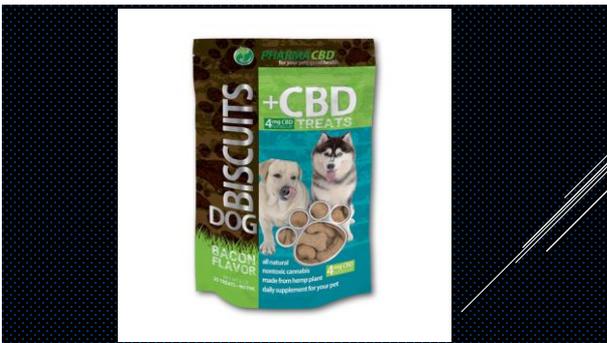
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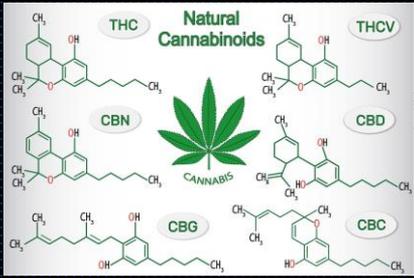
WHAT EXACTLY IS CBD?



A/K/A "Hemp oil"

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CBD IS AN ABBREVIATION FOR "CANNABIDIOL", ONE OF 100+ CANNABINOIDS IN MARIJUANA



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- CBD MAY BE TAKEN:
 - VIA FOOD OR DRINK
 - SMOKED OR VAPED
 - ABSORBED THROUGH THE SKIN OR UNDER THE TONGUE

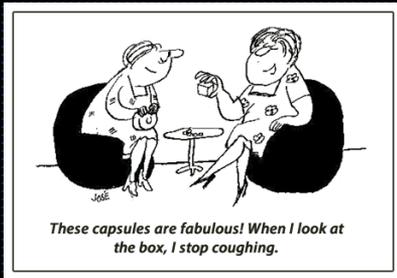
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Charlotte's first CBD dispensary and "bud bar" is now open on Central Avenue



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SO IS THIS JUST THE LATEST PLACEBO?



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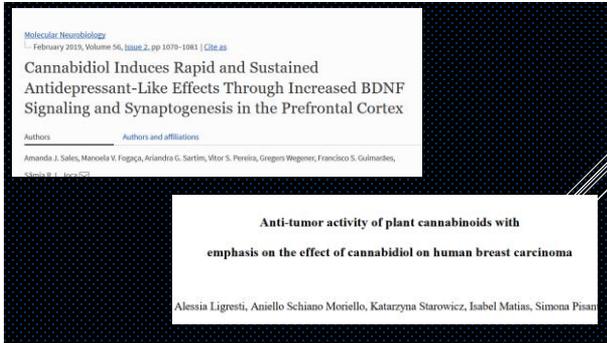
NOT ACCORDING TO THE FDA.

RECENTLY APPROVED
FIRST PRESCRIPTION
CBD MEDICINE

-Approved for patients 2 years or older for treatment of certain epileptic disorders



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--CANNOT CLAIM THERAPEUTIC BENEFIT WITHOUT FDA APPROVAL

--CANNOT INTRODUCE "FOOD" CONTAINING CBD OR THC INTO INTERSTATE COMMERCE

--CANNOT MARKET THE PRODUCTS AS DIETARY SUPPLEMENTS

--APPLIES EQUALLY TO HUMAN OR ANIMAL FOOD

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-MORE REGULATION COMING

-CRACKDOWN ON FOOD PRODUCTS AND HEALTH CLAIMS LIKELY



For more, see FDA Regulation and Marijuana: Questions and Answers:
https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm#dietary_supplements

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MORE ON THIS

NC sees hemp as next big cash crop 

IMAGES: Got hemp? New regulations coming for CBD oil products 

NC firm Criticality launches hemp oil CBD product line 

Hemp businesses are sprouting like weeds 

SHOW ALL

42

Jean smith
July 16, 2019 at 11:35 am

NC woman fired for using CBD oil to treat pain, lawsuit says | Charlotte Observer
<https://www.charlotteobserver.com/news/local/article232244097.html>

Reply

Leave a Reply

February 22, 2019 at 8:31 am

I also live in NC and was working for the Cleveland County school system. I take CDB gummy bears that are at the legal limit of 0.3% for lower back and hip pain, as well as headaches and sleeplessness. I failed a drug test and was given the choice to be dismissed or resign from my position...

Reply

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North Carolina officials find spiked CBD sold in the state

Tags: CBD, marijuana, e-cigarette

Posted 1:32 a.m. today
Updated 7:29 a.m. today

f t t in +



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EMERGING ISSUES

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DRUG IDENTIFICATION

UNDER *STATE V. FLETCHER*, 92 N.C. APP. 50 (1988), NO EXPERT TESTIMONY OR CHEMICAL ANALYSIS IS NEEDED TO IDENTIFY MARIJUANA

-New hemp laws and products cast doubt upon this rule, at least where there's a Rule 702 objection/challenge

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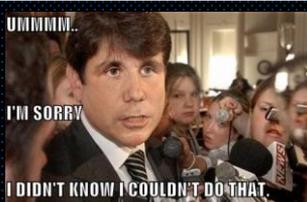
WHAT'S THE IMPACT ON PROBABLE CAUSE BASED ON THE ODOR OR APPEARANCE OF MARIJUANA?

"800 police K-9's in the state would be rendered useless . . ." V.P of NC Assoc. of Chiefs of Police.

"As long as smokable hemp is legal for use and sale in NC, marijuana laws are virtually unenforceable." Legal Counsel for the Assoc. of Police Chiefs

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DEFENSES TO MARIJUANA POSSESSION CHARGES?



--Possession requires willful possession – D. knew it was a controlled substance.

--Potential defense where State can't show guilty knowledge.

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DEFENSE TO FAILED DRUG SCREENS?



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--USERS MAY CONSIDER GETTING PERMISSION FROM WORK, DOCTOR'S NOTE, ESTABLISHING WORK POLICY, ETC.

--DOCUMENTED SELF-TESTING FOR THC AT HOME IS POSSIBLE AND MAY HELP ESTABLISH LAWFUL USE

Leson, G, Pless, P, Grotenhermen, F, Kalant, H, and ElSohly, MA. **Evaluating the impact of hemp food consumption on workplace drug tests.** *J Anal Toxicol.* 2001; 25: 691–698 re: use of 0.6 mg THC hemp-oil product produces positive immunoassay but negative confirmatory GC/MS.

50

§ 95-28.2. Discrimination against persons for lawful use of lawful products during nonworking hours prohibited.

(a) As used in this section, "employer" means the State and all political subdivisions of the State, public and quasi-public corporations, boards, bureaus, commissions, councils, and private employers with three or more regularly employed employees.

(b) It is an unlawful employment practice for an employer to fail or refuse to hire a prospective employee, or discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the prospective employee or the employee engages in or has engaged in the lawful use of lawful products if the activity occurs off the premises of the employer during nonworking hours and does not adversely affect the employee's job performance or the person's ability to properly fulfill the responsibilities of the position in question or the safety of other employees.

(c) It is not a violation of this section for an employer to do any of the following:
(1) Restrict the lawful use of lawful products by employees during nonworking

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STATUTE INCLUDES:

- lost wages/benefits claims
- order of reinstatement to position
- reasonable costs and attorney fees for violations

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Hemp, marijuana fight may doom NC Farm Act

Tags: farming, Brent Jackson, Jimmy Dixon, hemp, agriculture, hog farm
 Posted 1:17 p.m. Thursday
 Updated 1:37 p.m. Thursday

S.B. 315 AND 352

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Texas Legalized Hemp, Not Marijuana, Governor Insists as Prosecutors Drop Pot Charges

Prosecutors say labs don't have the time or equipment to distinguish between legal hemp and illegal pot.

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EFFECTIVE DATES:

10/31/2015 – NC legalizes hemp and removes from definition of marijuana

~SUMMER 2018 – Smokable hemp becomes a thing in N.C.

12/20/2018 – U.S. (clearly) legalizes hemp

May/June 2020 – NC to ban smokable hemp?

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QUESTIONS?

Phil Dixon
UNC School of Government
919.966.4248
dixon@sog.unc.edu

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CARTRIDGE/WAX ISSUE

G.S. 90-95(d)(4) – “If the quantity . . . exceeds . . . 3/20 oz. of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a class 1 misdemeanor. . . if the controlled substance consists of any quantity of . . . tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.

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GOOD POLICY TO INSIST ON NC HEMP ONLY?

IS IT CAPABLE OF BEING ENFORCED?



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