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PREMIUM DAILY COVER



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California has banned intoxicating hemp products. The DEA is conducting raids in North Carolina. And the \$28 billion hemp industry is at stake.

By [Will Yakowicz](#), Forbes Staff

IN the early morning hours of late September, some 30 Drug Enforcement Administration agents in tactical gear, with high-powered rifles drawn, raided a warehouse near Raleigh, North Carolina. The officers seized intoxicating hemp-derived THC vapes and joints, along with cash, computers and cars.

The agents, who were armed with a federal search warrant, froze the company's \$1.5 million bank account, and seized half a million dollars' worth of product.

"They came in full force," says Jay, the founder of the Wake County-based hemp product manufacturer and distributor who did not want to use his full name due to fear of legal repercussions. (Jay has not been arrested nor charged with a crime.)

Jay's company, which he founded in 2019, generates about \$60 million in annual revenue by selling hemp-derived products with enough delta-9-tetrahydrocannabinol, or THC, the main psychoactive compound in cannabis, to get people stoned. But he says his products are federally legal under the **2018 Farm Bill**, which allows the production of hemp and all its derivatives so long as it contains 0.3% of THC or less. Jay says his

products are within the legal limit. “I feel like we are currently at war with law enforcement on what we believe is legal,” Jay says.

Over the last several months, joint state and federal task forces **have raided more than 100 vape and smoke shops**, hemp product manufacturers and distributors in North Carolina, alleging that they are selling marijuana disguised as hemp. (Both hemp and marijuana are varieties of the same plant —*cannabis sativa L*—but marijuana is illegal in North Carolina.) Jay says he only makes Farm Bill-compliant products but some retailers, law enforcement alleges, have sold illegal cannabis products to children and others have sold marijuana in counterfeit packaging made to look like Oreos, Chips Ahoy! and Doritos. Law enforcement, according to three sources with knowledge, apparently have a list of companies and products that have tested “hot,” meaning the

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chemicals resulting in some individuals experiencing long-term health issues,”

Kemberle Braden, chief of police in

Fayetteville, **said in a statement** regarding the

string of raids.

Raleigh-based attorney Morgan Davis, who represents more than 10 hemp business owners who have been raided, says some of her clients have been charged with felonies related to trafficking, possession with intent to sell and the manufacture of marijuana. If convicted, her clients could face considerable prison time.

“The line between criminal and civil liability in this industry is razor thin,” says Morgan.

“It's just a ridiculous overreaction to a regulatory compliance issue. It's not a crime. It's like using napalm to get rid of the weeds in your backyard.”

The stakes are high. Overall, hemp-derived cannabinoid product sales hit \$28 billion in 2022 while legal marijuana products generated \$26 billion in sales during that same period, according to cannabis data firm **Whitney Economics**. Only 10% of the market is cannabidiol (CBD) products, which do not get people high and are associated with therapeutic effects. (Hemp is also used to make clothing, construction materials, plastics and other products, which is a much smaller segment in the U.S., with about \$5.5 billion in sales this year, **according to Grand**

View Research. That number could reach \$17 billion by 2030.)

California’s hemp market, meanwhile, generated \$3.5 billion in sales last year, while North Carolina’s hemp market generated \$760 million in sales. Hemp farmers, Whitney Economics estimates, have lost about \$3.1 billion in annual sales due to the state bans and legal confusion that has followed.

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Despite what the Farm Bill states, there is plenty of debate about whether hemp-derived THC products are legal under federal law. That’s because several things are true at once: hemp-derived cannabinoids—including delta-9 THC, **delta-8 THC** (a less potent compound that is affectionately called “weed lite” or “decaf kush”)—are legal under the Farm Bill if those compounds are found naturally in the plant. In an **opinion from the 9th Circuit Court of Appeals** in 2022, judges ruled that cannabinoids derived from hemp are legal,

even if the substances have psychoactive properties.

Yet most intoxicating hemp products on the market are made by converting hemp-derived CBD isolate into delta-9 THC or delta-8 THC using a chemical process. The DEA's section chief of Drug and Chemical Evaluation has said that **synthetically derived THC**—made through **“a chemical reaction starting from CBD”**—is a controlled substance and therefore illegal. However, the DEA's definition of “synthetic” has been inconsistent—the agency has also said that a cannabinoid is illegal if **“synthesized from non-cannabis materials”** but hemp derived CBD is from cannabis. The Food and Drug Administration has been granted authority over hemp, but to make matters even more byzantine, the FDA says it needs an act of Congress to fully regulate the products.

Not everyone in hemp thinks enforcement is a bad idea. Justin Journey, the **founder and CEO of 3Chi**, one of the nation's largest hemp-derived product manufacturers says years of no enforcement have created bad actors who are selling marijuana pretending to be hemp. The fact is that the hemp market is littered with bad products with dangerously high THC levels and operators who sell to children.

“It's a good thing, ultimately, that the industry is getting cleaned up and people are going to have to play by the rules,” says Journey. “You want to make sure products are safe and you need enforcement to make sure that’s happening.”

And North Carolina’s crusade against hemp is not the only front in this war on drugs. Late last month, California Governor Gavin Newsom delivered an even bigger blow to the hemp industry: he banned hemp-derived THC through an emergency order. Governor Newsom said that the move was to prevent underage sale of intoxicating hemp products to children. Under the new regulations, hemp products may not have any detectable level of THC. California also views hemp products as a threat to **its struggling legal \$5 billion marijuana market**. Since hemp is federally legal and marijuana is not, businesses have been selling THC-infused products online and in health food and convenience stores, smoke shops and gas stations while marijuana products must be sold through dispensaries. About 20 other states have previously instituted bans against intoxicating hemp products.

This summer, Missouri tried to ban hemp products and regulators **raided a VFW post on**

September 11 over hemp-derived THC beverages before walking back the ban. In Texas, law enforcement conducted **search and seizures on nearly a dozen hemp shops** alleging products were over the legal limit of THC levels while **authorities have conducted similar raids** in Mississippi.

Justin Swanson, a hemp lawyer and lobbyist who is the chair of Bose McKinney & Evans' cannabis group, sees the ban in California, the crackdown in North Carolina and other states as nothing other than an attempt to stub out the hemp industry. "These are pretty coordinated actions, state by state," Swanson says. "The end goal is to eliminate the hemp market."



In late March, the attorney generals of 21

states sent a letter to members of Congress asking them to remove the protections of hemp-derived cannabinoids from the Farm Bill the next time it is reauthorized. The attorneys general argue that the Farm Bill is a “reckless policy” that unleashed a “flood of products that are nothing less than a more potent form of cannabis.” And in May, an amendment made it into the next Farm Bill which would prohibit the production, sale, and distribution of synthetic intoxicating hemp derivatives and products. It is far from over as Congress is still debating the proposed language, with supporters on each side of the issue.

But it’s not all bad news for the hemp industry: Senator Ron Wyden (D-OR) **introduced a bill** that would support and regulate the intoxicating hemp market and Senator Rand Paul (R-KY) **introduced a bill** that would increase the federal THC limit in hemp to 1%.

“I feel incredibly optimistic—it feels like we've turned a new page into the entire discussion of hemp and cannabis legalization and regulation at a federal level,” says Jim Higdon, a cofounder of Kentucky-based Cornbread Hemp, which sells about \$25 million worth of hemp-derived cannabinoid gummies a year.

“But nothing happens without a crisis and without a villain.”

In Los Angeles, Nathan Cozzolino, co-founder of high-end hemp-derived THC edibles maker Rose, says California is its biggest market, representing 17% of the company’s modest annual revenue, which *Forbes* estimates to be around \$10 million. “It’s torture,” says Cozzolino, “business torture.”

Rose, founded in 2018 in San Francisco, makes Turkish Delight-style squares packed with sophisticated flavors, including nashi pear and clarified kimchi, with low doses of THC and other cannabinoids. The company originally started as a marijuana edibles company, but Cozzolino’s products didn’t sell well in dispensaries—Rose specializes in low-dose edibles for \$45, which are much more expensive and less potent than the **most successful marijuana gummies on the market**—and the company was going to shut down in 2023. But then Rose pivoted to hemp-derived THC and started selling directly to consumers online across the country.

“We lost our asses in the dispensary model forever, but hemp saved us,” Cozzolino says, “we finally have a sustainable, small business.” But now, with Rose losing its

largest market, he hopes the company can weather the storm. “We will live with it and survive,” Cozzolino says. “I hope to preserve my company and the 30 jobs we have created.”

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