

Cannabis Beverage Boom Creates Uncertainty and Opportunity

American consumers are increasingly given the option to eschew beer or hard seltzer in favor of a non-alcoholic THC beverage. Liquor and grocery stores around the country are featuring prominent displays with many brands and flavors of federally legal hemp seltzers, teas and sodas infused with 2mg to 10mg of THC.

While these intoxicating hemp products aren't new, they have recently found mainstream acceptance – most notably in conservative states without recreational cannabis statutes – and increasingly flow through existing beverage distribution networks. In addition to retail, restaurants, and bars, even **sports stadiums** have started serving THC beverages alongside alcohol, creating a host of liability concerns and potential gaps in insurance placements. Agents and brokers must be proactive to protect the interests of clients operating in this emerging sector.

CONTACT

To learn more about how Amwins can help you place this coverage, reach out to [John Deneen](#).

LEGAL DISCLAIMER

Views expressed here do not constitute legal advice. The information contained herein is for general guidance of matter only and not for the purpose of providing legal advice. Discussion of insurance policy language is descriptive only. Every policy has different policy language. Coverage afforded under any insurance policy issued is subject to individual policy terms and conditions. Please refer to your policy for the actual language.

Courtesy of Amwins Group, Inc.



THC beverages gain popularity

The 2018 Farm Bill legalized hemp at the federal level, exempting products containing less than 0.3% delta-9 THC from marijuana's Schedule 1 controlled substance designation. As a result, an 8oz to 12oz beverage may contain 2mg to 10mg of THC or more and remain under the hemp THC cap. Considering that most state adult-use marijuana regulations limit edible serving sizes to 10mg of THC, the 0.3% concentration threshold does not create a meaningful restriction on hemp food or beverage products.

Although expressly legal under the [Farm Bill](#), intoxicating hemp products are widely [perceived as a loophole](#) and out of step with the law's intent. As negotiations over the 2024 Farm Bill renewal continue, that loophole could either be widened or closed entirely. For instance, competing amendments and bills have been introduced which might ban intoxicating hemp cannabinoids outright, increase the hemp THC limit or [create a comprehensive regulatory framework under the Food and Drug Administration \(FDA\)](#).

Despite this uncertainty and a growing number of [state bans](#), hemp THC products are thriving. In 2022, Minnesota [created a booming market by allowing:](#)



Hemp-derived beverages and edibles containing up to 5mg THC to be sold in retail stores, including mainstream liquor and grocery stores.



Bars, restaurants and breweries to serve THC beverages alongside alcohol to enthusiastic customers seeking a healthier buzz amid a [downward trend in alcohol consumption](#).

Encouraged by the successful sales figures in Minnesota, large corporate liquor distributors and retailers [have started carrying hemp beverages wherever state regulations allow](#).



Best practices are required to protect operations

To downplay association with marijuana, many hemp beverage manufacturers market their products as simply Delta-9 or D9. Dropping “THC” from prominence on the label has led to confusion among customers and retail workers alike and represents a failure in consumer education – potentially creating additional liability.

Retail workers should be trained on dosages and effects and given clear parameters for dispensing product advice. Servers should also undertake responsible service training to identify signs of intoxication in customers and avoid over-serving.

Industry advocates have called for robust regulations to **limit access to minors, implement standardized quality controls and require uniform labels.** However, in the absence of these regulatory requirements, hemp operators should follow established best practices to ensure customer safety, protect their operations and appeal to underwriters to secure favorable insurance terms.

These best practices include:



Age-gating hemp products with the same rigor as alcohol or nicotine



Producing hemp food and beverages according to the same current Good Manufacturing Processes (GMPs) as non-cannabis products

In addition to any state and local labeling requirements, products should:

- Accurately disclose product potency
- Include the **universal symbol for intoxicating cannabinoids**, seen here





Specialized coverage is required to adequately protect clients

As the distribution model for THC beverages evolves, many non-cannabis businesses are now carrying cannabis products. These products present risks distinct from those faced by regulated cannabis operators or liquor stores. Businesses that have traditionally only sold alcohol and other beverages may find themselves exposed to uncovered claims if they don't disclose THC products to their insurance carrier.



Hemp businesses and their insurance agents must be diligent. Specialized coverage is required to adequately protect clients and a wholesale partner with specialty coverage expertise can help to ensure that proper coverage is in place.

Cargo

Alcohol and beverage distributors typically carry Motor Truck Cargo (MTC) coverage with standard insurers that have no appetite for cannabis and rarely make any exceptions for hemp. Underwriters might exclude cannabis by name, refuse to list it as a covered commodity or decline applicants with a known hemp exposure. Transporters may carry parallel policies covering hemp and other beverages but would be subject to double deductibles and potential messiness during claim settlement.

Amwins Program Underwriters (APU) is proud to offer the convenience of competitively-priced MTC coverage for cannabis, alcohol and other goods on a single policy. [You can learn more about it here.](#)



Product liability

Businesses up and down the supply chain are exposed to product liability claims if they sell, distribute or manufacture hemp products alleged to harm consumers. Many distributors and retailers don't perceive an exposure since they don't manufacture the product and it does not carry their brand. Nevertheless, they should expect to be named in lawsuits and will be subject to insurance requirements in supply agreements.

Product liability policies may or may not have specific cannabis exclusions. However, keep in mind that carriers who would never knowingly write THC products may fight claims unexpectedly filed against their convenience or liquor store clients.

The Insurance Services Office (ISO) has published multiple GL and product liability cannabis exclusions (CG4014 and CG4015), but even the version with hemp exception excludes products containing any amount of THC.

Proprietary carrier forms must also be closely examined as they're as abundant and diverse as a liquor store display of THC beverages. Cannabis programs designed for state-licensed cannabis operators might exclude intoxicating hemp cannabinoids on standalone forms, with wording built into non-ISO base coverage forms, or by listing hemp-derived THC along with other prohibited ingredients on a Specified Product Exclusion.

Robust product liability coverage for hemp products is available from an array of domestic and international carriers. Forms with definitions that follow Farm Bill language are available and advantageous to policyholders.

Unlike marijuana products, hemp policies are commonly available without any type of Health Hazard or Specified Disease exclusion. Many cannabis programs **attach such exclusions indiscriminately and may bury them in proprietary forms.**

Carriers underwrite hemp products more like dietary supplements on a Claims Made form, whereas alcohol is typically written on an Occurrence Form. Due to both form differences and limited appetite overlap, hemp and alcohol are more commonly placed on separate product liability policies.



Impairment and liquor liability

Serving THC beverages for onsite consumption creates significant potential liability – both while consumers are on site and after they leave. In contrast to liquor, which benefits from robust regulations, statutory limitations on liability and decades of case law, cannabis impairment liability is largely untested.

Standard liquor liability policies don't specifically exclude cannabis; however, the insuring agreement would not apply to THC. The ISO liquor liability form CG0033 is triggered by "selling, serving or furnishing of any alcoholic beverage."

Some cannabis insurers attach impairment liability exclusions, while others remain silent. Cannabis GL policies commonly limit coverage to designated premises and might not cover impairment-related claims that occur after patrons leave. As such, any business serving or allowing consumption of hemp products should consider carrying additional **cannabis impairment liability coverage**.

It's yet unclear how carriers will respond to claims involving both liquor and THC consumption. And given the unpredictable impacts that alcohol and THC "**cross-fading**" can have on inexperienced users, establishments should take measures to help ensure that patrons aren't consuming alcohol and THC at one sitting.

Property

Hemp products represent a less desirable theft target than marijuana, making them an attractive exposure to property underwriters. Operators are generally able to obtain multiple competitive proposals but should focus attention on whether their hemp products will be subject to safe or vault requirements, which are rarely viable for beverages.

Distributors who warehouse goods owned by others may find themselves in a predicament if they are responsible for insuring their customers' product but fail to identify hemp or cannabis exclusions in their policy. As on the casualty side, ISO released both an absolute Cannabis Exclusion (CP9903) as well as a Cannabis Exclusion with Hemp Exception (CP9904) that both exclude products containing any amount of THC. In absence of a cannabis exclusion, legal hemp inventory would generally be covered as Business Personal Property on the ISO property form CP0010.

Transparency about the types of products held as inventory is imperative. Failure to disclose hemp products to standard insurance companies may result in contentious claim settlements and allegations of misrepresentation.

A black and white photograph of cannabis leaves, showing their characteristic serrated edges and palmate shape. The leaves are layered, with some in sharp focus and others blurred in the background.

Takeaway

“Regulate cannabis like alcohol” has long been a rallying cry among reformers and advocates. However, concerns about product diversion, youth consumption and organized crime have resulted in much more stringent regulatory systems for medical and adult-use marijuana across the country. Low-dose hemp products are the closest to being treated like alcohol but will continue to experience [backlash and bans](#) until consistent federal regulations are implemented.

As public acceptance grows, cannabis products will continue to pop up in unexpected places. Regulations will continue to evolve, as will Amwins’ custom insurance solutions.

Insight provided by:

- **John Deneen**, Program Manager, Amwins
Program Underwriters