

## Appendix B: Assessment of existing high THC products' policies, programs, and initiatives in North America

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Policy approaches related to the THC concentration or concentrates as a class of product have varied widely across states. As of August 2022, policy options related to THC concentration that are in statute or rule in one or more of the 18 states with legal adult use markets that are open, or forthcoming include: THC Caps, serving sizes or package limits for THC in products, possession and purchase limits related to THC, specific labeling for concentrate products, THC-based tax approaches, specific warnings about THC and mental health effects, and point of sale or other consumer education. These are detailed in Table X and summarized below:

### THC Caps

Among the 18 states with legal adult use markets that are open or forthcoming, two have THC caps in place – Connecticut and Vermont. Both limit THC in cannabis flower to no more than 30%, and both prohibit the sale of solid concentrates with more than 60% THC in them. Both allow higher levels of THC in prefilled cannabis vape cartridges.

### THC serving size or package limit for concentrates

While all adult use states have a serving size and package limit in place for cannabis-infused edible products (typically set at 5mg/serving and 50mg/package or 10mg/serving and 100 mg/package), only six have a serving size or package limit in place for concentrate products. In terms of serving sizes, Colorado was recently mandated in statute to recommend serving sizes for both cannabis oils used in vape devices and cannabis concentrates. They issued an educational resource that recommends a serving size for vaped products of one inhalation lasting 2 seconds, and a serving size for concentrates that is denoted visually with a dot. New Jersey statutes and rules denote a single serving of cannabis product shall contain no more than 10mg of active THC, or the equivalent weight as best determined based on THC potency. Washington state limits cannabis concentrates to no more than 1g per unit. In terms of package limits, Vermont limits any cannabis product to no more than 50mg THC per package. Nevada limits non-edible cannabis products to no more than 800mg THC per package. California has a package limit of 1000mg THC for concentrate products sold on the adult use market.

### Possession and purchase limits

In most adult use states, purchase limits or limits per sales transaction are dictated by possession limits. In terms of cannabis flower possession and/or purchase limits range from 1ounce to 3 ounces with an equivalency for concentrates that generally ranges from 5g to 24g.

### Specific packaging and labeling for concentrates

Few states have specific packaging and labeling requirements for THC concentrates that differ from general packaging and labeling requirements. Colorado requires concentrates that cannot be easily measured or separated into the recommended serving size to be packaged with an affixed measuring device and labeled with instructions to allow the consumer to measure each serving. Nevada requires concentrates to list total THC in the form of a percentage and in total mg per package. New Jersey

requires all finished cannabis products to contain one of the following chemotypes on the label: high THC, low CBD - where the THC:CBD ratio is greater than 5:1 and the THC percentage is 15% or greater; moderate THC, moderate CBD - where the THC to CBD ratio is between 5:1 and 1:5 and the total THC percentage is between 5-15%; and low THC, high CBD - where the THC to CBD ratio is less than 1:5 and the total THC percentage is  $\leq 5\%$ .

## **Warnings on cannabis products about THC concentration or the potential association with mental health effects**

Adult use states have a range of required warnings for cannabis products. One state – New Jersey – requires the following specific warning on any cannabis product that contains a total THC percentage of  $>40\%$ : "This is a high potency product and may increase your risk for psychosis." The warning must be printed on the front of the package in no less than 10pt font and cannot wrap around the side of the package. In Colorado, cannabis products must contain a number of warnings including, "There may be long term physical or mental health risks from use of marijuana" In addition, a tangible educational resource that must be provided to consumers by licensed Colorado cannabis retailers includes the following specific warning related to concentrates: "Use of marijuana concentrate may lead to: 1) Psychotic symptoms and/or psychotic disorder (delusions, hallucinations, or difficulty distinguishing reality), 2) mental health symptoms/problems, 3) cannabis hyperemesis syndrome (uncontrolled and repetitive vomiting), 4) cannabis use disorder / dependence, including physical and psychological dependence. The warning also contains language that "Marijuana concentrates ARE NOT recommended for anyone under the age of 25, except if recommended by a doctor. People under 25 may be at greater risk of potential harm because the brain is not fully developed." Nevada requires a general warning on all cannabis products that "There may be mental or physical health risks associated with the consumption of cannabis or cannabis products, including but not limited to cardiovascular problems, psychosis, or exacerbation of anxiety and/or depression."

## **Public education or point-of-sale education to consumers about concentrates**

The state of Colorado requires stores to provide a tangible educational resource that includes the recommended serving sizes, adverse event reporting contact information, and the warnings noted above.

## **THC-based tax approaches**

Three adult use states have THC-based taxes. In Connecticut, in addition to other sales taxes, there is a THC-based tax collected from the consumer at the time of sale wherein: cannabis plant material is taxed at a rate of 0.625 cents/mg of total THC as reflected on the product label; cannabis edible products are taxed at a rate of 0.275 cents/mg of total THC as reflected on the product label, and all other cannabis products are taxed at a rate of: 0.9 cents/mg of total THC as reflected on the product label. In Illinois, there is a tiered THC-based tax at the point of sale wherein: cannabis with a delta-9 THC level at or below 35% is taxed at 10% of the purchase price; cannabis infused products are taxed at a rate of 20%; and cannabis (other than infused-cannabis) with a delta-9 THC level above 35% is taxed at a rate of 25% of the purchase price. New York has a wholesale tax of \$0.008 per mg of THC for concentrate products.