

## SUBMISSION TO FOOD STANDARDS AUSTRALIA & NZ (FSANZ) - APPLICATION A1039

### LOW THC HEMP IN FOOD

#### Preferred Option

WA Police prefer Option 1 – Reject the Application

WA Police provide the following comment on the Risk Management Issues raised in the Assessment Report (ranked in order of priority to WA Police).

#### 6.5 Drug Testing

- It is still not known whether the low levels of THC will trigger positive oral fluid tests. These tend to be more sensitive (higher percentage of false positives) than urine and blood tests.
- **The application should not be approved when there is no such evidence available.**
- This research should be conducted as a priority before the application is considered.
- As previously raised, this issue has potential for increased costs to law enforcement with an increase in the number of confirmatory tests required. Secondary analysis of these samples, for drug driving offences, currently cost \$200 per sample (see below).
- The Leson & Pless (2000) paper confirms this view stating that “the occurrence of screening positives at the 20ng cut-off is conceivable”, therefore requiring the more expensive GCMS confirmatory tests.
- The issue also has implications for workplace drug testing (where oral fluid tests are used).
- The Chem Centre WA already foresee this being used to excuse a positive workplace test –“ I have not used cannabis, I’ve just consumed some hemp food”.
- It is not likely that offenders will be able to contest Random Drug Testing charges. Section 64AC Road Traffic Act (WA) provides no defences to the charge of ‘drive with prescribed illicit drug in oral fluid’ . If you have THC or Amphetamine in your system then the offence has been committed. Whether or not a magistrate may accept consumption of THC as part of hemp food as a defence under the Criminal Code is not known.
- In 2012 WA Police is looking at issuing driver banning notices for 6 hours for people that have THC in their oral fluid.

#### 6.5 Questions for submitters (from page 20 of the Assessment Report):

**Are you aware of any studies reflecting the effect of consumption of hemp foods on the results of saliva THC tests?**

No. The Chem Centre WA would be the best source of relevant information. They conducted an analysis of the sensitivity of oral saliva testing for THC when compared to urine testing. If they have not put in a submission the FSANZ should approach them for advice on this issue.

**Can you provide information on the type of saliva tests that are available, including sensitivity of the tests?**

Oral fluid wipes and oral fluid tests are readily available from many different manufacturers and suppliers. Sensitivities seem to vary slightly. Australian Standard 4760-2006 appears to indicate a cut off level of 25ng/ ml for THC.

**What saliva THC tests are currently in use in Australia and New Zealand? For these tests, what levels of detection of THC are currently used? Can you provide information on the methodology of these tests and the costs of conducting these tests?**

WA Police currently use the Securetec DrugWipeII Twin to conduct preliminary screening. This involves rubbing two small adsorbent pads down the tongue and then placing back onto the body of the device, which then analyses the sample of oral fluid taken. These cost approximately \$ 40 each. A search of the internet shows that these devices can detect from 20ng/ ml.

The secondary screening is done using a Cozart Drug Detection system. This involves collecting another saliva sample, placing it into the machine, after mixing it with a solution and then analysing the sample. The specifications for this machine state that it can detect THC at approximately 31ng/ ml. These tests also cost about \$ 40 each.

**Can you provide any additional data on other THC testing methodologies that are used in Australia and New Zealand (for example, urine and blood)?**

Blood and urine testing for drugs, including THC, is used where police have reasonable grounds to believe that the driver is drug impaired or incapable of having proper control of the vehicle due to drugs and/ or alcohol.

**Which analytical laboratories currently conduct confirmatory THC testing, for example blood tests? How much do these tests cost?**

All WA Police testing is done by ChemCentre, at a cost of \$200 per oral fluid sample. Levels below 10ng/ ml are treated as negative results.

**Do you have data to indicate the levels of THC in current hemp food products?**

No

## **6.8 Acceptance of cannabis**

- The use of hemp in foods will send a confused message to the community about the safety of cannabis. This section (6.8) mentions the need for education initiatives, to differentiate between hemp and drug varieties, but there is no mention of costs and who will pay? These costs would be substantial and should be included in the Cost Benefit Analysis.
- WA Police feel that the community and the media are easily confused about subtle changes in regard to illicit drugs. For example, the Cannabis Control Act was introduced in 2004 making possession of small quantities of Cannabis an offence that could be expiated by attending an

education session or paying a fine. The community and the media continually interpreted this legislation to mean that small quantities were lawful which was incorrect.

- The message from allowing hemp in food will undermine significant expenditure, by both state and commonwealth governments, on cannabis education and prevention initiatives, for example the Drug Aware campaign in Western Australia. These campaigns are designed to increase awareness of recent research into the health effects of cannabis and to reduce use and the associated harm.
- Allowing hemp in food is also contrary to recent Government initiatives to ban the sale of synthetic cannabinoids.

## **6.2 Potential to mislead consumers – additional labelling requirements**

- The assessment states that “the representation of a cannabis leaf on a hemp food label would be a truthful representation of the plant source of the product”.
- It also states that there is no evidence for or against whether this would mislead consumers to believe that the hemp food has psychoactive properties.
- There may be no evidence but it is common sense that the cannabis leaf symbol is strongly associated with illicit cannabis use and associated subculture (smoking implements etc). It therefore implies psychoactive properties and will mislead consumers.
- The increased visibility of the cannabis leaf symbol on hemp food products (eg in supermarkets) also normalises the cannabis culture and contributes to the ‘acceptance of cannabis’ (as mentioned in 6.8). It also exposes juveniles to this marketing and the conflicting message of an illicit product being associated with a food item.
- Current hemp food websites<sup>1</sup> make extensive use of the cannabis leaf logo in marketing their wide range of products such as soap, shampoo and cream. They suggest human consumption of hemp seed with comments like “tastes great” and “super food”. They also suggest psychoactive properties with a hemp seed recipe that “makes a real difference in how you feel”.

## **6.6 Impact of other legislation**

- The Road Traffic Act (WA) would need to be amended if we have to provide for an acceptable level of THC in oral fluid due to it’s inclusion as an ingredient of food.
- Based on our experience with the Industrial Hemp Act, WA Police advise that amendments will need to be made to the Misuse of Drugs Act, the Poisons Act and accompanying Regulations.

## **6.3 High THC cannabis products entering the food supply**

- There is a slight risk that, despite regulation, organised crime will become involved in the hemp industry.

## **6.4 Distinguishing between hemp and cannabis seeds**

- WA Police acknowledge and support the decision to remove whole and viable seeds from the recommended option (2B).

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<sup>1</sup> Such as [www.hempfoods.com.au](http://www.hempfoods.com.au) and [www.puredelighthemp.com.au](http://www.puredelighthemp.com.au)

## **Conclusions**

Many of the FSANZ conclusions in this Assessment Report might hold in a perfect world. However it is law enforcement agencies that have to deal with the unintended consequences when things don't go as planned. For example, THC levels increase in the food supply, increases in positive roadside drug tests, organised crime involvement, confusion regarding the harms from cannabis use, increased acceptance of cannabis use etc.