

## Rod Kight Comments on the Legality of Delta-8 THC in the U.S.

*This interview was conducted by CBD Oracle via email on September 20, 2023.*

### **About Rod Kight:**

A recognized industry leader, Rod is an award winning attorney who represents clients in the cannabis industry throughout the United States and the world. He also drafts legislation for governments and promotes cannabis in lawful international markets.

You can read Rod's full bio here:

<https://cannabusiness.law/about/rod-kight-international-hemp-cannabis-business-law-attorney/>

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**CBD Oracle:** *In your opinion, is delta-8 legal federally?*

**Rod Kight:** Yes, delta-8 THC from hemp is not a controlled substance under federal law based on the hemp exemption, which removes hemp and all of its derivatives, extracts, cannabinoids, isomers, etc. with a delta-9 THC concentration not exceeding 0.3% by dry weight from the Controlled Substances Act. This has been confirmed by the Ninth Circuit Court of Appeals in the AK Futures case and also by the DEA in several public announcements. Regardless of one's views on whether or not D8 *should be* legal, its current lawful status is no longer the subject of serious dispute.

**CBD Oracle:** *Which states do you think have the most sensible approach to regulating delta-8? What can we learn from these states?*

**Rod Kight:** Tennessee has the right approach to cannabinoid regulation, including D8, in its recently enacted law, SB378. Rather than attempting to prohibit D8 (or other cannabinoids), the new TN law makes D8 and other cannabinoids subject to reasonable regulations regarding safety, access by minors, licensing, and taxation. This is a pragmatic approach that aligns with the federal farm bill, approaches regulation based on what is actually happening in the market, and allows access to it by consumers while simultaneously addressing the issues that matter.

**CBD Oracle:** *What's next for delta-8?*

**Rod Kight:** Although D8's popularity initially arose in "red states" without access to D9 products, we have not seen its sales wane as access to D9 products in those states have increased. In fact, D8 has even become popular in marijuana states. I believe this is because D8 has properties that are similar to, but different enough from, D9 that consumers desire it. For this reason, D8

will remain an important product category for the foreseeable future. Additionally, I do not anticipate that it will be substantially impacted by the next Farm Bill.

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