PLONSKER ADVISORY

INVESTMENT & COMMERCIAL THESIS

The Hemp-Derived Beverage Opportunity

A category worth $1B+ today, scheduled to be legislated out of existence in November.

The consensus reads this as a regulatory story. It is not. It is a channel story with a regulatory clock attached, and the clock is what creates the entry price.

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I. THE CHALLENGE

A category with an expiration date

On November 12, 2026, hemp-derived THC beverages become federally illegal. Not restricted. Illegal. A provision inserted into the bill that ended the federal shutdown caps hemp products at 0.4mg of total THC per container and shifts testing from delta-9 to total THC. A 5mg can is more than ten times over the line.

The mechanism deserves attention because it explains the politics. Senator Mitch McConnell wrote the 2018 farm bill language that created the category, and he closed it himself, inside a must-pass bill, without a hearing. Senator Rand Paul's amendment to strip it failed **76 to 24**. That vote is the most important number in this analysis and most category commentary ignores it. The Senate was not close.

What is scheduled to disappear is roughly a **$24B industry supporting an estimated 300,000 jobs and $1.5B in annual state tax revenue**. The twelve-month delay is itself the signal: if this were a genuine health emergency, there would be no runway. The delay exists to create room for a replacement, and the shape of that replacement is already visible.

The beverage carve-out

Representative Beth Van Duyne (R-TX) is circulating the Hemp-Derived Beverage Regulatory Clarity Act. It would preserve beverages specifically: adults 21 and over, a cap of **5mg delta-9 per serving**, a **TTB-administered three-tier system** modeled on alcohol, and a federal excise of **5¢ per milligram**. Senators Klobuchar and Smith have separately floated state-run frameworks with Minnesota's rules as the model. Minnesota permits 5mg per serving. Every serious proposal on the table converges at 5mg.

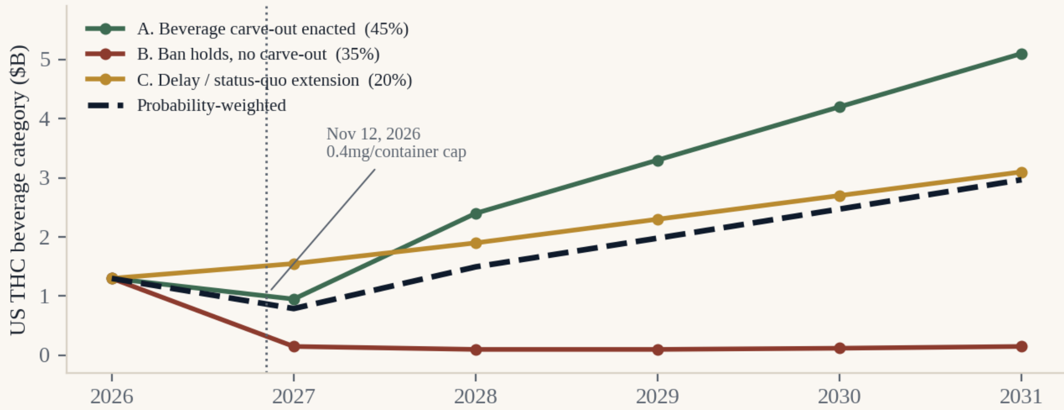
Beverage is the probable survivor for a structural reason, not a lucky one. It is the only hemp format that maps onto machinery Washington already operates: a three-tier system, a federal excise mechanism, an agency to administer it, and a distributor lobby with every incentive to bring a high-growth category inside its own tent rather than watch it grow outside. Gummies have no such constituency. Flower has no such constituency.

The states are not waiting, and they are moving in both directions at once. California banned intoxicating hemp outside its licensed cannabis system in October 2025. Texas is regulating rather than prohibiting, restricting sales to adults 21 and over. Washington's licensed hemp growers fell from 220 to 42 in five years. A national position built on any single state's rules is fragile regardless of what Congress does, which is the second argument for building toward the 5mg convergence rather than toward a jurisdiction.

> *The three-tier mandate is the tell. It is not a burden the industry requested. It is the price the wholesalers are charging for their support, and it tells you exactly which asset the rule is designed to protect.*

Almost everyone reading this market is asking whether the ban will hold. That is unknowable, and a position that requires an answer is not a strategy, it is a wager. The useful question is narrower: **what is worth owning under every outcome, and what is the cheapest moment to acquire it?**

Three futures, one deadline
Illustrative scenario weights, not forecasts. 2026 base anchored to reported category sales >$1B.



II. THE MARKET OPPORTUNITY

Proven demand, and a channel worth 16x

Skepticism is well earned here. The CBD cycle produced enormous projections and almost no durable businesses. The difference is that this demand signal shows up in someone else's numbers.

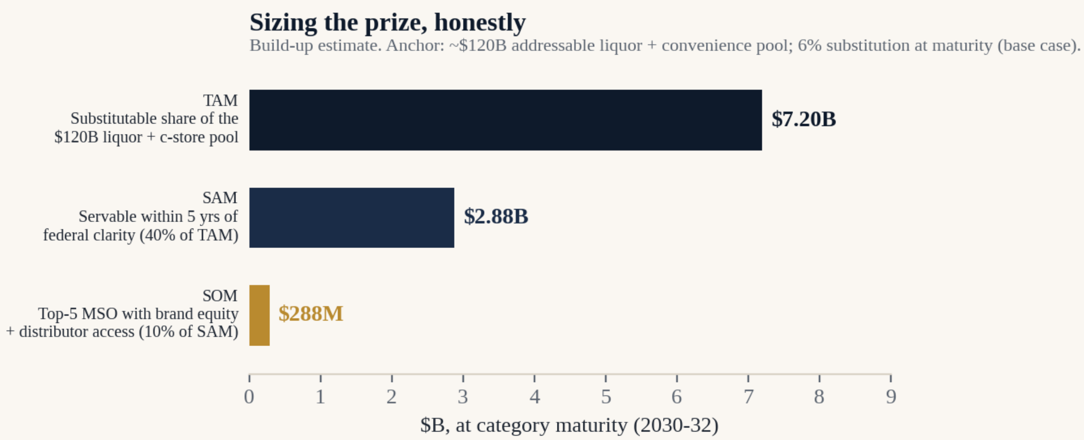
THC beverages generated **$239M in tracked sales in the 52 weeks to April 2026, up 135% year over year** (NielsenIQ), with total category sales estimated at **$1.0B to $1.3B** (Whitney Economics), since scanner data misses smoke shop, hemp retail, and DTC volume. Over the same period beer fell nearly 6%, spirits 5.6%, and wine 9%. Molson Coors' chief executive conceded publicly he would be naive to claim THC drinks were not a factor. Some retailers now report the category at up to 15% of sales, at margins rivaling wine.

Three characteristics separate this from CBD. Roughly **60% of buyers are first-time cannabis consumers**, so the category recruits rather than cannibalizes. About **65% of sales are low-dose** under 10mg, and 2.5mg cans now outsell 10mg formats: sessionability is the product, and consumers are substituting for a drink rather than seeking an experience. Repeat holds at roughly **40% at 60 days** against about 25% for traditional edibles.

The channel is the entire case

Everything interesting here is downstream of one number. Hemp-derived product reaches **250,000+ retail doors**. State-licensed cannabis reaches roughly **15,000 dispensaries**, each a single-state island with its own license and no interstate commerce. The unit of expansion in cannabis is a state. In hemp it is a truck. The addressable pool is roughly **$120B** in annual liquor and convenience sales.

The mainstream channel has already voted. Circle K has committed to as many as **3,000 stores**. Sprouts began selling across roughly 115 stores in Texas and Florida. Total Wine, Binny's, and Target carry the category. Minnesota, running 5mg rules since 2022, reached an estimated **$180M to $210M** in 2025, with THC drinks now close to a quarter of the business at established Minneapolis brewers.



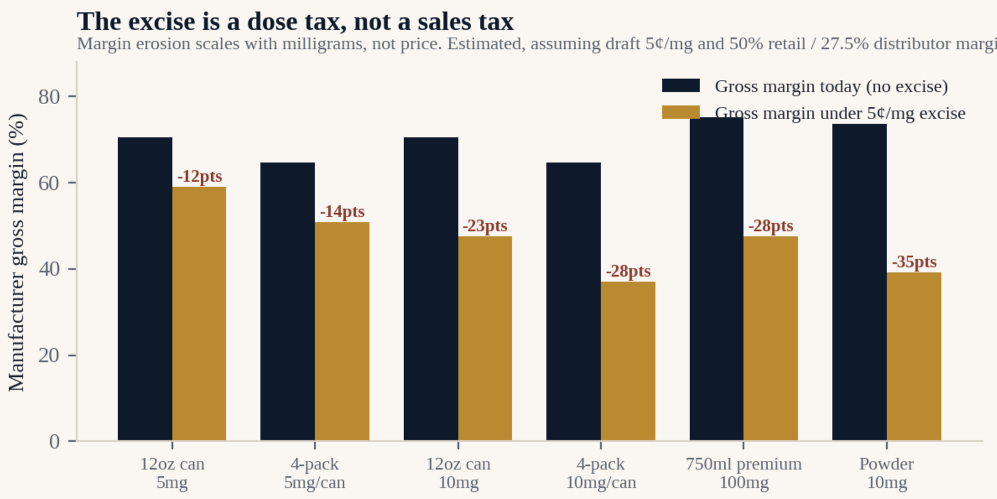
Sizing from the channel rather than a growth rate: at maturity, a 5% to 7.5% substitution of the $120B pool implies a **$7.2B TAM** in the base case. Roughly 40% is servable within five years of federal clarity, or **$2.9B**. An operator with existing brand equity, compliance infrastructure, and distributor access can credibly hold about 10% of that, or **roughly $290M**. Not because the brand is special, but because the alternatives are sub-scale startups without balance sheets, or alcohol majors who arrive late by construction.

And the category has no leader. Tilray's chief executive said so plainly: nobody has taken hold of the market. In a category growing 135% with national retail already committed, that is extraordinary, and it is the reason the window exists.

III. THE VALUE THESIS

The excise is a dose tax, and it tells you what to build

This is where most analysis of the category stops being useful. The draft excise is not levied on price. It is levied on milligrams, at 5¢ each, and that single design choice reorders every format decision an operator would otherwise make.



Run the chain. A $5.99 12oz can, at 50% retailer and 27.5% distributor margins, returns roughly $2.17 to the manufacturer. Against $0.64 COGS that is a 70% gross margin today. Add 5mg of excise and it falls to **59%**, a manageable 12-point haircut. Now run the formats that look best on a strategy slide. The **100mg premium 750ml bottle carries $5.00 of tax**, 27.6% of manufacturer net revenue, and drops from 75% to 48%. The 10mg powder additive, elegant economics at 74% today, collapses **35 points to 39%**, because the tax is indifferent to the fact that the product is small and cheap to make.

The implication contradicts conventional CPG logic. In most categories, premium high-potency formats carry the margin and fund the volume play. **Here the tax inverts that.** The low-dose sessionable can, which looks like the commodity end, is the margin-protected format. The premium high-dose expression, which looks like the profit engine, is the one the excise punishes hardest. This is not accidental: a per-milligram tax is a public-health instrument wearing a revenue measure's clothing, engineered to push the category toward low-dose product. It will succeed. Operators who read it as a tax line will misprice. Operators who read it as a portfolio instruction will build the right product.

What is actually worth owning

Not the brand, which the majors can buy or build. Not the formulation, which is contract-manufacturable. Not the category forecast, which is a function of a committee vote.

The distributor relationships and the shelf position. If the carve-out passes with three-tier attached, those become the legally mandated gate every competitor must pass through, and whoever holds them ships in the first wave into a market that stratifies within six months. If the ban holds, beer and wine distribution still carries value in the regulated channel and in adjacent functional beverage. If the outcome is delay, the relationships mature at no cost while the majors stay sidelined.

That is a structural position: an asset that pays under every branch of the tree, available at a price set by sellers who are pricing only the worst branch. The M&A marks confirm it. A brand distributed in **37 states sold for roughly $4.3M up front**, with most consideration pushed into an earn-out. That is not a category priced on growth. **It is a category priced on legal risk**, and a properly hedged buyer is better positioned to bear that risk than the founders are.

> *The window is not the category's growth curve. It is the gap between the moment federal ambiguity resolves and the moment Constellation, Molson Coors, and Pernod Ricard can act. All three are circling. None can move first: public companies with alcohol licenses cannot enter a category that is federally illegal in twelve months. They are not slow. They are constrained, and constraint has an expiration date.*

The recommendation

Build to the shape of the probable rule, and structure so that being wrong is survivable. Four moves.

- **Design to 5mg now.** Every proposal converges there, and the consumption data already sits there. A 10mg SKU under a 5mg rule is a reformulation, a relabel, and a lost quarter at the exact moment shelf is allocated. There is no scenario where this is the wrong call, which is what makes it the first one.
- **Buy the distributor relationship before it is priced.** Under a three-tier mandate, distributor access converts from a channel decision into the gating asset and reprices instantly. Tilray's route through its own beer distribution is the template. Relationships built after the rule lands are twelve months late to a market that stratifies in six.
- **Price the excise in from day one.** A 5mg can carries 25¢ of federal tax before state layers. Absorbable on a $5.99 can; fatal on a promotional ladder built without it, and it will not surface until volume scales.
- **Gate capital against legislative triggers, not the calendar.** Formulation and distributor relationships now, since both hold value in every scenario. Production scale and inventory only on a clear signal. Triggers written down before the money is available, with a named owner. This is the single discipline separating a structural position from a wager.

The honest risk: a 76 to 24 vote is not a close call, and a carve-out that dies in committee leaves the category federally illegal and strands anyone built exclusively toward it. That outcome carries real weight, not footnote weight. It is precisely why every recommendation above is structural rather than directional. An operator who designs to 5mg, keeps a regulated line running, and gates scale capital is positioned to win the upside without needing to be right about it.

Anyone selling certainty about November is selling something. The work is building a position that does not require it.

How this analysis was developed. Originally prepared as a category entry evaluation for a top-five multi-state cannabis operator, assessing whether and how to extend an existing branded portfolio into federally-legal hemp channels. Rebuilt to reflect the current legislative posture and extended with independent market sizing, unit economics modeling, and scenario analysis. Published in anonymized form.

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Sources. NielsenIQ, *Buzz Worthy: The High Rise of THC Beverages* (Apr 2026); Whitney Economics (2024, 2025); Congressional Research Service IF13136; Arnold & Porter (Dec 2025); AP / PBS NewsHour (Nov 2025); Reuters (Jul 2025); Marijuana Moment (2026); Pashman Stein (Nov 2025); Minnesota Statutes 151.72. **Basis of preparation.** All sizing, unit economics, and scenario weights are estimates and judgments prepared for analytical purposes; scenario weights are structuring devices, not probabilities. Legislative status current as of July 2026.