One Plant, One Framework

The case for the Whole Plant Act

The Open Materia team.

Every fight in cannabis policy right now is a fight over a broken framework. Civil libertarians are right to oppose the return of prohibition through the back door. Public-health advocates are right that unregulated intoxicants on a gas-station shelf cause real harm. Patients are right that they are being priced out and gatekept. Farmers are right that they were pushed into a cannabinoid gold rush and left exposed when the rules changed. Small operators are right that the market they built is being handed to whoever had the capital to wait them out. Every one of those positions is valid, and every one of them is trapped, because they are all arguing inside a framework that cannot be made rational no matter who wins the argument.

The problem is not which molecules from which plants should go where. The problem is that we are still pretending "hemp" and "marijuana" are different things, that we can regulate identical molecules differently based on botanical origin, and that this serves anyone except those positioned to consolidate the market and criminalize the rest.

This paper lays out the framework that ends that fiction. It is the thesis behind the Whole Plant Act, and its claim is simple: regulate cannabis by what it does, not by where it came from, and almost every problem the current system creates dissolves.

The regulatory fiction

Cannabis is cannabis. Hemp is not a different plant. It is a regulatory fiction, a line drawn on a lab report, not in nature. The distinctions we have built an entire legal system on, hemp versus marijuana, the 0.3 percent line, psychoactive versus non-psychoactive, intoxicating versus non-intoxicating, synthetic versus natural, are not scientific categories. They are political fabrications, and they were designed to create artificial market divisions.

The science does not cooperate with any of them. Flower with high THCA sits on a shelf next to candy, legal because it carries less than 0.3 percent delta-9 THC, right up until someone heats it and the THCA converts to fully intoxicating THC. A gummy packs a heavy dose of delta-9 and stays "compliant" by weight. A cannabinoid synthesized from CBD is no less active because its starting material was grown under an arbitrary threshold. And CBD is not "non-psychoactive" simply because it does not make you high; it acts on the psyche to treat seizures, anxiety, and pain. These are not edge cases. They are the predictable result of regulating by botanical origin instead of intoxicating potential. You cannot rationally regulate a molecule based on which cultivar it came from or how it was extracted. Public health does not work that way, and neither does chemistry.

Who the fiction serves

The origin split is not a mistake anyone is failing to fix. It is a mechanism, and it does reliable work for the people who benefit from it. Two enclosures feed on it at once, from opposite directions, and both are moving right now.

The first is commercial. An origin loophole let intoxicating products flood the market with no oversight, which was never stable and was always going to provoke a crackdown. But watch how the crackdown is being built. The market that small, independent operators created gets routed through liquor regulators and three-tier license systems, or squeezed by timelines only the well-capitalized can outlast, or folded into a licensed system where the biggest players already hold the licenses. Each move uses a genuine safety rationale, keeping intoxicants from kids, as the door through which consolidation walks. Big alcohol and big tobacco do not need the loophole to stay open. They need it to close in a way that hands them the market.

The second enclosure is pharmaceutical, and it is quieter and more permanent. For decades the movement argued that the whole plant is therapeutically superior to isolated molecules, that the synergy of its compounds matters. That argument has now been proven at the highest evidentiary level the field can produce, and the proof has been drafted so that it belongs to one branded product and to nothing else. The science the community won gets severed from the plant and attached to a proprietary cultivar with a trademarked name, validated by trials no dispensary or patient collective could ever fund. Once the branded, prescribed, reimbursed version exists, the unbranded plant becomes, in the language of regulatory legitimacy, the informal and inferior one. The same medicine that costs a hundred dollars a month at a dispensary costs tens of thousands a year once it carries a trademark. Nothing about the molecules changes. Ownership changes.

Both enclosures run on the same split. As long as the plant can be divided by origin, it can be divided into a captured lane and a criminalized one. A framework that ends the split is the only thing that defends against both at the same time, which is the entire point of building one.

The framework: classify by intoxicating potential, not origin

Start from first principles. There is one plant. Sort what comes from it by what it does at the dose a person actually takes.

That yields two regulated markets and one clean carve-out. Cannabinoid products are sorted by intoxicating potential. A product with no intoxicating potential at its labeled dose moves through general retail, the way any other wellness product does. A product with intoxicating potential at its labeled dose is restricted to licensed specialty retail, age-gated, tested, and labeled. And industrial cannabis, the plant grown for fiber, seed, grain, and material rather than for cannabinoids, is regulated as the agricultural commodity it is, under the food and agricultural standards that already exist, freed from a cannabinoid framework it never belonged in.

That is the whole sort. No 0.3 percent threshold. No hemp-versus-marijuana. No synthetic-versus-natural. Two questions decide everything: does this product contain cannabinoids, and what is its intoxicating potential at the labeled dose. The supply chain flows naturally from there, because operators are licensed by what they are actually making, and classification by intoxicating potential lands where it belongs, on the finished product a person buys.

Six commitments

Classification by intoxicating potential is the spine. Five more commitments make it a whole framework rather than a slogan: keep the plant public, one common standard, medical use as infrastructure, protect the person, and one authority.

Keep the plant public. This is the answer to the pharmaceutical enclosure, and it is the most durable protection available because it costs almost nothing and runs in one direction only. You cannot patent what is already in the public domain. A thorough, published, dated record of the plant's chemistry and preparation, is prior art against every claim filed after it, and prior art cannot be fenced. Every fence in the enclosure story has to be bought: a federal appeal, a clinical trial, a marketing authorization. Publication is free, and it cannot be undone. Timing matters, and the clock is the next patent filing, not a scheduling date. That is why building the public record is the first move and runs in parallel with everything else, and why the Act also meets patent risk directly, with a transition limit on remedies and a prior-use defense for state-lawful use.

Medical use is infrastructure, not a product silo. Here language matters again: there is no such thing as medical cannabis, only the medical use of cannabis. The same flower, the same oil, one person uses therapeutically and another socially; the difference is in the purpose, not the molecule. So medical use should not be trapped in a fictional, siloed vertical as though its products were chemically distinct. It should exist as public-health infrastructure that works alongside the unified market: patient and provider education, clinical guidance, affordability and access, research and outcomes, an enhanced-access tier for those who need higher amounts. Medical use is protected by being funded first, as infrastructure, not by being walled off, because the wall is exactly the seam that let the intoxicating loophole open and let the medical program hollow out.

Protect the person. Enforcement should ask about conduct, not chemistry. The order of inquiry is impairment first, then substance, then the legality of the substance long after the fact. A person is impaired or they are not, and impairment is impairment regardless of its cause; we already test whether someone can safely operate a vehicle without needing to know what is in their blood. Building enforcement around the presence of a molecule instead of around actual conduct is how prohibition recreates itself, and it is why the framework carries a criminal and civil floor: no charging a single act as two crimes, no license suspension bootstrapped off a cannabis charge, automatic clearing of records for conduct that is now lawful, and protection from discrimination in employment, housing, healthcare, and family court for lawful use. The same floor carries a path to undo the harm already done, clearing the records the old system wrote and protecting the legacy growers and small operators who carried the plant through prohibition rather than handing their market to the incumbents, because a rational framework does not just stop penalizing people, it repairs what the irrational one cost them.

One authority. One plant regulated through several agencies with conflicting mandates is not regulation, it is a set of seams, and the intoxicating market escaped through exactly those seams. The framework places the sector under one coordinating body that sets standards across the whole market and directs the administering agencies within their competence, consolidating over time. The molecule does not change with the silo it sits in, so neither should the standard that governs it.

One common standard. A plant regulated to a different standard in every state is a plant no one can move, test against, or trust across a border, and that fragmentation is its own kind of enclosure, because only the largest operators can afford fifty compliance regimes. The framework conforms each state's product, testing, labeling, and authentication standards to one common national standard, so a preparation characterized in one state is recognized in another and the market is interoperable the day interstate commerce opens. The framework does not author that standard and make it the thing litigated against; it conforms to the recognized public standard and helps steward it.

Why it answers everyone

The reason to classify by intoxicating potential is not tidiness. It is that the false choices dissolve. Youth protection is stronger, not weaker, because age-gated retail with real labeling demonstrably works better than either a convenience-store free-for-all or a criminalized market that drives products to minors. Public health gets what it wants, because intoxicating products are actually regulated, tested, and dosed instead of sold in a gray zone. Patients get one rationally regulated market to navigate with clinical support, instead of three arbitrary silos with different products and different rules. Farmers are freed to grow the plant for fiber and food and material without being forced into the cannabinoid market to survive. Small operators get a commons that cannot be patented out from under them. And civil liberties are protected, because the framework does not recriminalize anyone; it regulates conduct, not molecules.

This is not splitting the difference between the warring camps. It is removing the thing they are fighting over. Two regulated markets plus medical use as infrastructure equals comprehensive access without fragmentation, and almost every legitimate concern that looks irreconcilable inside the origin fiction has a real answer outside it.

It does not wait for Washington

Because the framework classifies by intoxicating potential and builds the public-domain moat in state law, it does not depend on any particular federal move, and that is its most useful property. If the federal government closes the intoxicating-hemp market, the displaced demand simply moves into the licensed lane classified by intoxicating potential the framework already defines. If it reschedules, an operator can meet the new federal posture or stay in the state program, and the moat, built first, keeps the plant from being enclosed as the change lands. If it does both, or neither, the structure absorbs it. A state that adopts this framework stops letting the federal calendar set its tempo and starts building the structure that is ready for any outcome. That is the difference between playing defense, reacting to each federal move a step behind, and playing offense, building the net before the ball is thrown.

Oregon first, then everywhere

A framework written in the abstract stays thin, because nothing forces it to be complete. So this one was built in a real place, against a real code, real agencies, and real objections from the people who would have to live with it. Oregon is the forge. The Whole Plant Act is amendatory there, transforming Oregon's own statutes so a legislator, counsel, or regulator sees their familiar code morphed into what it needs to be, not a foreign document dropped on their desk. The national model is what survives when the Oregon-specific parts are stripped away, which means the next state adapts a tested framework rather than starting from a blank page. One plant, one framework, built to travel.

The stakes

The movement spent fifty years and a generation of arrests to make this plant legitimate. Legitimacy is arriving, and if nothing changes it will arrive wearing a name the movement cannot use, attached to evidence the movement cannot cite, on a shelf the movement cannot reach, while the rest of the plant is driven back underground where it is most dangerous. That outcome is not inevitable. It is what happens if we keep fighting each other over crumbs inside a framework designed to divide us, while consolidation, pharmaceutical and commercial, closes in on the plant.

There is a better path, and it is not complicated. Regulate the plant by what it does. Keep it in the public domain before it can be fenced. Build medical use as the infrastructure it should always have been. Protect the person instead of prosecuting the molecule. Put one authority over one plant. And repair the harm the old system did. That is the Whole Plant Act, and the case for it is not that it is a perfect compromise. It is that it is the rational framework the whole fight has been missing, and the time to build it is now, before the enclosure finishes closing.

We can do better. This is how.