



THE **Cannabis** COUNSELOR  
FEATURING ALEECE BURGIO

**Episode 5: “Zach Sarkis and Jason Klimek Discuss Delta-8, CBD, and Much More”**

Speaker: Aleece Burgio with guests Zach Sarkis and Jason Klimek

**[Aleece]** Hey everyone, this is a Barclay Damon Live broadcast. You’re listening to the Cannabis Counselor and I’m your host Aleece Burgio. Let’s get into it!

What’s up, everybody? It is Episode 5 of the Cannabis Counselor. I’m your host Aleece Burgio and we are talking with Jason Klimek and Zach Sarkis today about everything. We’re going to time out Delta-8, we’re talking about CBD, adult use, CRTA, MRTA. These guys are just like a bank vault worth of knowledge. So I tried to get as much out of them as we could. It’s going to be a really interesting segment and I want to also give a shout-out to Oxford Pennant. Thanks for the cool-looking pennant that will now be in my office. All right, stay tuned.

**[Aleece]** Hi, everyone! I want to introduce you to Jason Klimek, he’s the cannabis service team leader at Boylan Code, Board member of Roc NORML and HempLab, and we also have Zach Sarkis who’s the founder of HempLab and Flower City Solutions. Flower City Solutions just launched recently. So, if you haven’t, check it out. Hi, Zach. Hi, Jason. How are you?

**[Zach and Jason]** Good. How are you doing, Aleece?

**[Aleece]** Doing good. Thanks for joining Episode 5 of the Cannabis Counselor. Today we’re going to be talking about a couple different topics between hemp and marijuana. Zack and Jason are both very well versed in these issues and, actually, we are, the three of us—a couple compadres over here—are doing a... it’s a HempLab series. Right, Zach? How would you describe what we’re doing on Tuesdays?

**[Zach]** Yeah, we’ve been calling it the workshop. It’s a MRTA, so the Marijuana Regulation and Taxation Act, workshop. It’s a five-part series happening every Tuesday for three more Tuesdays from... it’s like a lunchtime workshop where we go line by line through this proposed regulatory document and, yeah, it’s been pretty fun with the two of you.

**[Aleece]** Yeah, we’ve got good vibes there and so we have until the end of March. Right? And we talk from noon to usually like 1:15 or 1:30 p.m.

**[Zach]** Yeah, and then we share the recording. So definitely folks who are on this call, if you message us or just register even if that time doesn’t work for you, we’d be happy to share the recordings once they’ve been... once they’re completed.



**[Aleece]** Yeah, that sounds great. So today we're going to be talking about Delta-8 concentration in the aspects of where we see it in hemp right now, and is it going to be relevant when we get into adult use. I want to talk about, you know, briefly what we've been chatting on in the HempLab series, which is the MRTA versus the CRTA. You know, Jason's found a lot of different missing points in each bill and I want to talk about distribution licenses, taxation, a whole range of topics from there. And then I want to wrap us up and talk about CBD and, similar to Delta-8, is that going to be something that will continue to see its profitability when New York State kind of turns to adult use. So Delta-8 concentration, we'll start with this. It's an interesting kind of loophole, right, that people have been using to get like high-up THC content with no Delta-9 0.3 percentage rates happening. What do you guys think about Delta-8? Zach, I'll start with you.

**[Zach]** Yeah, I think it's fascinating. I definitely do think it's a loophole and, you know, on a level I'm not touching it with a stick. On another level you got to, as a person in the industry, got to feel a little bit of the itch, where people... it's one of the highest grossing SKUs right now on retail shelves and it's definitely like pushing heavily into or taking away from the CBD products. I think one thing, as we know, it's like, it is a derivative of CBD. So it's coming... people are making this CBD extract and converting it through different processes into this Delta-8, which is one degree of separation away from that Delta-9. I would definitely say it's psychotropic. It's very much a psychoactive substance—if we're considering THC such—but it's definitely kind of like the light beer versus an IPA. Let's say THC Delta-9 is an IPA, where you might get your Corona Light is your, is your Delta-8 and so it still has an impact on folks. I think it's really tapping into this market segment that is looking for more euphoria. That's maybe peeled off from illicit markets because we don't have a retail, you know, an active legal market in New York State. So I think it is capturing more perspective and definitely creating a lot of rush, but I do think it is a loophole and something that we're going to see highly regulated soon or totally wiped off the map. One or the other.

**[Aleece]** It's interesting, right? Because, and Jason correct me if I'm wrong, didn't they include Delta-8 in the new hemp extraction regulations?

**[Jason]** I know it's in the proposed MRTA. I think they... in the hemp extract... I don't know. Did they? I don't think they specifically called it out, but I think that they kind of defined cannabinoids in a way that would be inclusive of it. And it really reminds me... I think this was... maybe it still goes on, but this was like years ago, too, where you know, they had all the designer drugs and they're basically playing cat and mouse with the DEA where like, they would change one little chemical composition and it's no longer illegal. And then the DEA goes back and does their thing and that's what this reminds me of because I learned a bit. It's a product that still gets you high and clearly the policy would be to regulate. So...

**[Aleece]** Absolutely. Do we think that... And, you know, I've talked to a lot of people in the industry, especially retailers, and they just were saying the other day like, "This is flying off the shelves." That the Delta-8 gummies, these concentrations, are people's choice over CBD products, they're finding right now, and I think there's a lot of uncertainty. And so these are, you know, we've had people who are manufacturing right now saying, "Am I going to get screwed and not be able to do this in a month, in a month and a half?" What do we think about that? Jason, do you see... foresee them getting shut down or changing regulations to stopping that?



**[Jason]** I think—at least in, you know, in the New York context—I think assuming that the... let's say MRTA passes (because I know it's covered in that bill) that they are going to have to get a license for that. There's no question. And I think that even under the hemp extract regulations, if they're, let's say, a retailer, they're going to have to get a hemp extract retailer license as well. But yeah, I think that absolutely—assuming this passes—the landscape changes and they are now absolutely regulated.

**[Zach]** Yeah. I think a lot of it comes down to price point as well. And right now there's an oversaturation of CBD production across the United States. You can buy \$200 kilos of CBD crude, let's just say, and then you can bring that product and distill it down to Delta-8 relatively easy. But as we begin to see, you know, Delta-9... the legal THC market open up, you know, the question is, is there a market for Delta 8? Are people going to continue to do that extra chemical process to manufacture the THC Delta-8 when you can just have THC products? I do think that we are looking at an interesting full-spectrum experience where people are actually choosing Delta-8 because it doesn't get them high like Delta-9 and it isn't maybe the same impact as your CBD. And so it is interesting. I'm sure it depends on like what terpenes and what are being blended into these extractions for more of the euphoria-based experience. Is it being vaporized or sprinkled on flower? But I do think it is, no matter what, something that is going to be regulated. I do think that it's in the best interest for consumers to have this be something that is included in the hemp extract bill and/or the MRTA-CRTA hybrid. Because we don't know where it's coming from at this point in time, and one thing is clear is the new hemp regs are really setting a high, high standard for consumer quality and advocacy in New York State and so, by not including Delta-8, whether you want to call it something that gets you high or not, it deserves to be part of their system of regulation. While everyone is participating in this hemp market, in this hemp industry, or wants to be in Delta-9 is also bound by these regulations, so it would not be fair if Delta-8 can sneak through unchecked. But I don't necessarily think it needs to be outlawed. That's not my perspective because, you know, the state's going to call it THC, which is evident in the language we see in the MRTA bill.

**[Aleece]** So, you know what's interesting, just on the Delta-8—and I think it correlates to with CBD—is whether we think that, you know, CBD is one of those cannabinoids that when you include THC to it, the properties become more exponential. Right? So people tend to look for those 20:1's, 30:1's to have a better CBD threshold. As opposed to coming just necessarily from hemp because, you know, traditionally they say, “Well, the higher the Delta-9 concentration the stronger your CBD is going to be.” Is that true or what have you guys seen in your research?

**[Zach]** It's funny, I would say the opposite is how I've approached CBD: that CBD is the tone of... like reduces the sound, the experience of THC. So it's more pacifying, I would say more equalizing, when it comes to consuming THC. So if I was to consume THC and I mix that with CBD, my experience is much more mellow than if I was just to do THC by itself. So I think this idea that like THC amplifies the CBD, I'm going to just say, like, THC is the amplification and CBD is the moderator, I would say, or like the modulator. And so I do think that people do want full-spectrum product, like, it's across the board. But when you begin to see people experiencing a little bit of THC mixed in with higher-concentration CBD and having a positive—I'll say THC—experience that is supported by CBD and also the CBD has its own impact and impression on the endocannabinoid system, neurological system, and, you know, all systems. I do think that people want both of those things.

**[Aleece]** Yeah.



**[Zach]** A lot of people want them together and I think, you know, we kind of pointed this in the beginning, like, I think because of that CBD will not go away. But, of course, how we're consuming it, how we're telling the story of how CBD... Again, is it amplified by CBD or is it the thing you take if you're too high because you had too much THC.

**[Aleece]** Right! Yeah!

**[Zach]** So I think it is about how we... the industry tells the story, but I don't think it's going away.

**[Jason]** I would say, too—and, you know, take this with a grain of salt because there's a lawyer talking about like physiology and chemistry and stuff like that—but THC binds primarily to the CB1 receptor, but also CB2, and CBD binds the CB2 as well. So if you have CBD bound to CB2 receptor, that means that the THC can't bind to it, which means that you're going to get some type of moderated effect, you know, as opposed to the CBD not being there. So there is some—at least the way I understand it—some physiological component that CBD is moderating the THC a little bit.

**[Aleece]** Yeah. I love the way that example that you're using from like ... think about it like in a beer spectrum where we're talking about, you know a light beer to an IPA and its variations of strength. I think there are, you know, listeners and watchers at home. That's a really good way of looking at the totality of all the cannabinoids in a plan. Do you see CBD being a strong market in the adult use... If we have an adult-use market, do you see CBD surviving?

**[Zach]** Yeah, I do. I think it's going to have its place within a brand. I think most brands will be smart to carry CBD based products. I think it definitely has to do with your customer segment and it's definitely growing in the aging community. It definitely has its value topically applied. Sublingual has its place. I mean even, like, the flower, CBD flower. Personally, I'm nine times out of 10 would mix CBD flower with THC flower because that's what I'm looking for. I'm not looking to smoke THC and get blasted for example. You know, there's a certain functionality that comes when CBD is in the picture. I think there's going... The question, I wonder, will just solely CBD brands be successful? Maybe? If they capture their niche audience, if they continue to drive, you know, marketing, etc. But I personally believe that we're going to see a little bit of everything. Like, right now, THC industry has been pumping like 30 plus percent THC. We're seeing CBD getting like these varieties that are in the 20s, you know, maybe higher than that. Simultaneously, like, you know, there's this whole world in between of, like, one to ones that, like, people, like, who are sensitive to cannabis actually thoroughly enjoy. So I think we're going to see some extremes in both directions, but we're going to see more of this full-spectrum product that is more central than just CBD or just THC, like these kind of hybrids.

**[Aleece]** I think that's interesting and I think that transitions us right into this MRTA/CRTA discussion because the CRTA—and Jason, your bread and butter over here, taxation—is hemp THC, you know the higher the THC the higher the tax is going to be on this this weed. And so I think it begs the question: wouldn't people be more susceptible to putting CBD in their product then or downplaying the THC content knowing that it's going to get taxed higher in the CRTA? Right? So, I mean, Jason do you foresee people kind of shying away from a high THC, you know, flower or do you think it's not going to matter and the price will just jump?

**[Jason]** So I think that, if the CRTA were to pass with its tax rates, what I think we would see is people buying lower-THC-concentration products because the policy, and this was stated by some of the people in the governor's office, is that they want to promote "temperance" was actually I think the language they used in the budget proposal. But that's looking at it from an alcohol perspective.



**[Aleece]** Right! Totally. Like an alcohol content. Yeah.

**[Jason]** Right, which doesn't translate. Because if you, let's say, wanted to have—this is crazy—but if you want to have like eight shots, that'll get you where you want to be very quickly.

**[Aleece]** Totally.

**[Zach]** Or where you don't want to be.

**[Aleece]** College.

**[Jason]** Yes. The equivalent of that would be eight beers that is volumetrically very different. I mean eight shots versus eight beers is a huge difference in terms of quantity. It's not that way with THC.

**[Aleece]** Totally.

**[Jason]** I did some, like, rough calculations and basically, like, one hit off of a vaporizer is equivalent to, like, two hits off of, like, a flower, like, a joint, or something like that. So is somebody going to indulge less, you know...

**[Aleece]** Because the THC!

**[Jason]** Because they're just going to take a couple more hits.

**[Aleece]** Right! Yes.

**[Jason]** So they'll just buy the cheaper product because at the end of the day, it's going to get them to the exact same place with minimal more effort. So I don't think it "promotes temperance." I think it just taxes arbitrarily, this group of products a little higher. And then also why is the edible tax four times higher than the vape tax? Like, I don't... Or the concentrate tax.

**[Aleece]** Right.

**[Jason]** It doesn't really make any sense. Seems arbitrary.

**[Aleece]** No, I know and it's so funny because, you know, if you're looking at other states, all these people who have these brands, right, these solid brands and the THC level is very high, New York's going to miss out on all that. They're going to miss this transferability of bud, basically, from the West Coast to the East Coast because those multistate operators aren't going to probably make that brand or if they do they might make one of their strains as opposed to seven that they have in other dispensaries. Right? And a lot of people will probably concentrate themselves on, like, we're talking about mid-level THC, like, not, you know, exorbitant highs and I think it completely takes away...

**[Zach]** No, but it's also too, like, the recreational industry is pushing these high THC—whether it's concentrate or flower—no matter what. That's illicit or legal.

**[Aleece]** Right!



**[Zach]** And so like the people who want the heavy punching flower or extracts, like, they will find it because that market already exists. Now, it's probably going to get cleaner, too, as the industry evolves across the country because access to leakage or, you know, where it's being manufactured elsewhere, like, the conditions of cultivation and processing outside of New York State and, let's just say connected to illicit markets, I would probably say is going up compared to the past, like, decade before where, like, you know, God only knows what butane is still left in the extracts that are getting it in New York State. And so I think that, like, we will see taxation, yeah probably doing some kind of shifting of the market in that way, but I think that if you look at total market—illicit and legal—that the demand will still remain there, but the folks who are committed to their higher-quality or higher-punching products will find other routes. And so may not be an economic... Something is recorded through taxes, but I do think that it'll continue to survive because like the innovation is continuously happening and New Yorkers want the hottest crop, you know, they want the highest-quality product that's on the market.

**[Aleece]** Totally!

**[Zach]** And so they're going to get it.

**[Jason]** Here's a question that I have—and I honestly just thought of this—does that benefit the medical market? Because remember we're talking about adult-use taxes. These are not medical taxes. And medical, like, one of the arguments against taxing THC—particularly high THC—is that medical patients tend to use higher dosages for their issues. So does this push more people into the medical market? Because those THC doses are available and they're taxed at I think the... well the current rate is 7 percent. I don't know if the CRTA changes that. So, you know...

**[Zach]** Yeah. I could, I could definitely see that. For sure. And then is there, like, a monopoly, you know through on high-THC products through the existing, you know, the uh...

**[Aleece]** The ROs.

**[Zach]** Yeah. The ROs. And so that's, like, I think that's a loophole that (1) is actually interesting and valuable to, like, address of, like, okay, yeah, like, high doses of CBD and THC. I think that's kind of, like, you're starting to look at some kind of medical, but there's also people who, like, smoke herb every day, so much of it, of high-potency stuff and are functional.

**[Aleece]** Totally.

**[Zach]** Some people are completely dysfunctional with one puff. So it's, like, it's not a fair standard across the board. And I, yeah...

**[Aleece]** I mean, especially when you get into like the edible game. Right?

**[Zach]** Totally.

**[Aleece]** You know, I wish I was somebody who... They were like, "Yeah, you know, I had 10 milligrams of a chocolate bar." And I was like, "Oh this isn't that much." And I was knocked on my butt and I was like, "Dude 10 milligrams is a lot." Mind you, I talked to guys all the time that are like, "I popped a 125 milligram gummy." Like super fine.



**[Zach]** Hundred percent. And then worked out. And you're like, "What?"

**[Aleece]** I'm like, "What?"

**[Jason]** I was on a phone call with a friend and he's like, "Oh, yeah." He doesn't even do it that much and he's like, "Oh, yeah. I took 60 milligrams. It's not that bad." I'm like...

**[Aleece]** I'm like, I mean, you wouldn't even be able to find me. I don't even know where I'd be, like, 60 milligrams, like, I'd be out of it.

**[Zach]** Yeah, that's toxic. That's toxicity right there.

**[Aleece]** Yeah insane and so I think yeah, you're totally right that like, you know, we have, you know, people metabolize it so much differently and I think it's such an interesting conversation when we're getting into like how much THC is in something and how much, you know, people... There isn't an average amount, I would say, that we can go off of because it's not like alcohol. It's not something that's, you know, fine for you one minute and then, you know, you hit your roadblock and then you're completely done at a, you know... You can kind of gauge that it's not the same, I feel like, here. Now, Jason, do you want to talk to us a little bit about the taxation in the MRTA?

**[Jason]** Yeah! So thank you for giving me a chance to nerd out. You know, this is my jam. Taxation on the MRTA: it's actually really simple. It's 22 percent and it's... I was actually looking at this one point in particular today. It's all done at the wholesale level; all the taxes accrue at the time of the transfer between a person and the dispensary, not the dispensary and the consumer. So everything's, you know, kind of up the chain. But the real issue that I'm having right now with the MRTA is this forced use of a third-party distributor. So if you are a producer or a processor—or dispensary for that matter—you cannot hold the distributor license. And if we take alcohol as kind of an analog, a distributor... The average markup there is somewhere around 35 percent. So if you compile all these taxes together, throw in a distributor, there's actually a scenario in which the final retail price is actually—of flower—is actually lower under the CRTA, with its much higher taxes, than under the MRTA because of the use of the... mandatory use of this distributor, which does not exist under the CRTA. CRTA a processor could hold the distributor lease.

**[Aleece]** So let me back this up for a second just so I can understand it. So what you're saying is the MRTA requires, you know, you can't be a producer and a processor and a distributor; You're only allowed to be a producer-processor. So no matter what, somebody has to have a distribution license and use that. But under the CRTA... Under the CRTA there... you can have producer, processor, and distribution, which allows that, you know, greater vertical integration up until the point where you can be a retail store. But you're right, that means that you have to have a surge of people who (1) want to be in distribution only in the MRTA, which isn't necessarily the case when you look at it as an operations standpoint, right? Like a lot of people are like, "Well, I'm going to grow, I'm going to process, and then I'm going to ship my product out to dispensaries that I have relationships with." You know, as on the MRTA section, I think that does open the door, though, to a lot of liquor distribution companies saying, "Hey, we're going to come in and we're going to put our foothold now in distribution under the MRTA."



**[Jason]** Well that's, I think, the argument, but I don't know if that really, like, tracks in reality. Because sure, they know what they're doing in alcohol, but do they have the connections for the dispensaries? Do they have the infrastructure for that? Like, I don't know that that's... it's just a, you know, a complete one for one. And that's, I guess, you know, I don't give a lot of credit to the CRTA very often, but that is one area where I do give it credit is they provide for a distributor license. So if I'm a processor, I can get one or, if a third party is competitive and I see value in them, I can use them. But there's choice...

**[Aleece]** Absolutely.

**[Jason]** And I think that's important.

**[Aleece]** Zach, anything else that you think's important to note just on the differences between the MRTA and the CRTA? I think we're going to wrap it up after this topic, but I do want to touch on if there's, you know, a topic in these two bills that you feel is a valuable insight.

**[Zach]** I mean, there's definitely certain things we can talk for days with regards to like the social justice, social equity stuff. I think, like, just on that topic, distribution, hearing Jason's thoughts with regards to accessibility, I think, and I've heard... I haven't heard the whole vision in support of the MRTA structure around this distribution bill, so I'm speaking from more of a place of like independent, centrist, vested interest in the industry, curious to see how different policies would unfold. So I'm not speaking as like I know both bills perfectly or why MRTA versus CRTA, but I do think that that having more people able to do distribution will would allow for more businesses to be playing in the sandbox across the board—small businesses specifically—and create more avenues for value add and value generation for small businesses. Because one thing that's evidently clear that will happen—and it's happening across the country—is mergers and acquisitions are the hottest commodity in the cannabis industry and...

**[Aleece]** For sure.

**[Zach]** A company that's allowed to have its own distribution has such a higher value point or ability of getting acquired or integrated than one that does not. And so from a small business and accessibility point I could see there being a lot more value driving, like, business value in the ability to distribute and I also, you know, would be... I do like some of the protective language that's... or preemptive language in the MRTA that does speak to helping prevent their being monopolized. So I think with that in mind, like, yeah, if everyone can distribute then everyone gets bought out by a massive distributor that would be an issue. So still how to, like, navigate this will... knowing that it's a place to generate more revenue, have more relationships and brand loyalty, whether that's retail brands or customers, etc. So definitely happy to learn more, but that's kind of some thoughts responding to Jason.





**[Aleece]** Yeah. And for our listeners and viewers out there, we're actually going to be having assemblywoman Crystal Peoples-Stokes on the show in the next few weeks. I think distribution is going to be a really important topic to touch point on. I want to talk to her about her taxation levels and if, you know, they're going to come down at all now given the fact that it looks like the MRTA might be the bill that we're going to be seeing moving forward with, which—and the three of us have talked about this a zillion times—but, like, had you asked me four weeks ago, I would have said Cuomo's bill. But now with everything that's going on, you know, Albany is consumed right now with the sexual assault allegations and the, you know, nursing home deaths that I think that the legislature might be the ones who are putting this bill forth and it is, you know, it's a good bill and I think that it can continue to improve and just like anything can, but I'm excited for us to kind of continue moving forward with MRTA as kind of our, you know, guiding light while we look at adult-use legislation.

**[Jason]** And the legislators have definitely been very receptive to input. I think that they have taken the input from experts to heart and, you know, they lowered their tax rate when we said this doesn't work. So I think that's important to remember is that they are looking to make the best bill and they want the experts' opinions on what's going to work and what isn't.

**[Aleece]** Totally. Well Zach and Jason, thank you so much for coming on the Cannabis Counselor. I love having you. I'm sure we'll do this again. And for those listening, please check out the HempLab series on Tuesdays 12:00 to 1:30 with Jason, Zach, and I talking about the MRTA if you feel like these podcasts aren't giving you enough in our 15 to 20 minutes and we go into a deep dive. So once again, thank you guys so much. And everyone, thanks for listening.

**[Zach]** Yeah. Thank you so much.

**[Aleece]** The Cannabis Counselor podcast is available on YouTube, LinkedIn, Apple Podcasts, Spotify, and Google Play. Like, follow, share, and continue to listen! Thanks!

