

In the  
Indiana Supreme Court

Cause No. \_\_\_\_\_

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STATE OF INDIANA,

Appellant,

v.

DEVIN A. DICKENS,

Appellee.

On Petition to Transfer  
from the Indiana Court of  
Appeals No. 24A-CR-1912

Appeal from the  
Dubois Superior Court

Cause No. 19D01-2403-F2-256,

The Honorable Nathan A.  
Verkamp, Special Judge

**MOTION OF MIDWEST HEMP COUNCIL  
FOR LEAVE OF COURT TO FILE BRIEF OF *AMICUS CURIAE*  
IN SUPPORT OF APPELLEE’S PETITION TO TRANSFER**

*Amicus Curiae*, Midwest Hemp Council (“*Amicus*”), by counsel, pursuant to Indiana Appellate Rule 41, respectfully moves this Court for leave to file a Brief of *Amicus Curiae* in Support of Appellee’s Petition to Transfer, and in support states as follows:

1. *Amicus* is a not-for-profit organization and the leading trade organization for the hemp industry in the Midwest, working to develop and support the whole hemp plant economy.
2. MHC is dedicated to providing information and advocacy for the hemp industry in the Midwest and beyond; MHC’s members represent twenty-three states and two countries. Its members include farmers, processors, distributors, retailers, educators, researchers, and marketers.

3. In keeping with its mission and purpose, *Amicus* wishes to lend its support to Appellee’s Petition to Transfer.

4. The position of *Amicus* is aligned with the position of Appellee, Devin A. Dickens. As required by Indiana Appellate Rule 46(E)(2), *Amicus* has coordinated with counsel for Dickens to avoid duplication of arguments to the greatest extent possible.

5. *Amicus* has an interest in the central question in this case: is Delta-8 THC legal or is it a controlled substance? The State’s singular position before the trial court was that Delta-8 THC is not legal under the relevant Indiana statutes.

6. The Court of Appeals opinion below allows prosecutors to charge MHC’s members—such as retailers, producers, and manufacturers of hemp-derived products—with controlled-substance charges *even though* Delta-8 THC is “low THC hemp extract,” which is explicitly excluded from the definition of a “controlled substance.”

7. Even though the panel sidestepped the question of Delta-8 THC’s legality, the practical effect of the opinion below is this: prosecutors may charge individuals (or MHC members) who possess Delta-8 THC products with controlled-substance charges, argue that the Delta-8 THC products *may* contain illegal THC, and indicate that *later* the State will figure out whether the products actually include illegal THC.

8. In other words, those possessing Delta-8 THC products (which can be brought in gas stations, convenience stores and even restaurants throughout Indiana) may now be charged with a crime and even languish in jail for months, if they are unable to make bond (as was the case with Mr. Dickens).

9. Additionally, the Court of Appeals’ opinion sanctions charging those transporting Delta-8 THC through Indiana with controlled-substance charges, despite the fact that federal law, *i.e.*, the 2018 Farm Bill, expressly preempts Indiana and other states from interfering with the interstate transportation of low THC hemp.

10. Businesses involved with Delta-8 THC—businesses that the State itself *incentivized* to operate in Indiana—now face significant uncertainty as to whether they will be subject to criminal proceedings, given the opinion below.

11. Additionally, individuals who buy Delta-8 THC from retailer now face significant uncertainty as to whether they will be subject to criminal proceedings, given the opinion below. Mr. Dickens, for example, was in possession of what he believed was a legal substance (one that can be bought in stores) and spent months in jail because he could not afford his bond. There are dire constitutional implications with this scenario.

12. *Amicus* believes that this Court should weigh in on the important and timely question—Delta-8 THC’s legality—that is causing fear and uncertainty among individuals and entities within Indiana, as well as those transporting Delta-8 THC products through Indiana.

13. The Appellate Rules provide that the “proposed *amicus curiae* shall file its motion to appear within the time allowed the party with whom the proposed *amicus curiae* is substantively aligned to file its brief or Petition,” which is due Monday, July 28, 2025. Thus, this Motion is timely filed. See Ind. App. R. 41(B).

WHEREFORE, *Amicus Curiae*, Midwest Hemp Council, respectfully requests that this Court permit it to appear and file a Brief of *Amicus Curiae* in Support of Appellee's Petition to Transfer, and for all other proper relief.

Respectfully submitted,

/s/ **Paul D. Vink**

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### **CERTIFICATE OF SERVICE**

I certify that on July 28, 2025, I electronically filed the foregoing document using the Indiana E-Filing System (IEFS). I also certify that on that same date the foregoing document was served upon the following person(s) via IEFS:

Kathy Jo Bradley: [kathy.bradley@atg.in.gov](mailto:kathy.bradley@atg.in.gov)  
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/s/ **Paul D. Vink**

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