

U.S. Hemp Roundtable

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February 4, 2019

The Honorable Sharren Wilson
Criminal District Attorney
Tim Curry Criminal Justice Center
401 West Belknap
Ft. Worth, TX 76196

Dear Ms. Wilson:

The U.S. Hemp Roundtable, the industry's leading business advocacy organization, has learned from news reports that your office has plans to prosecute as a felony the simple possession of hemp-derived cannabidiol, better known as CBD. We write to strongly urge to abandon your efforts to arrest, or otherwise prosecute as a crime, the purchase, possession, or sale of hemp-derived CBD.

Over the past few years, hemp-derived CBD has emerged as a popular food and supplement product for thousands of Texans and millions of Americans. Hemp is not marijuana, and hemp-derived CBD is not medical marijuana; by legal definition, hemp has 0.3% or less THC, the psychoactive compound found in much higher concentrations in marijuana. Taken for individual general health and wellness, CBD has been deemed by both the World Health Organization and the U.S. Food and Drug Administration, after intense scientific scrutiny, as safe and non-toxic, with no abuse potential or risk to public health.

Furthermore, last December, the U.S. Congress passed, and President Donald Trump signed, the 2018 Farm Bill, which removes hemp-derived CBD – as well as all “extracts, cannabinoids and derivatives” of the hemp plant – from the purview of the Controlled Substances Act.

Texas law is undeniably unclear about the status of hemp-derived CBD. There is no explicit prohibition for the retail sale of such products, nor admittedly is there any express permission for its sale. Indeed, there is no definition of “hemp” under Texas law. However, while marijuana and THC are generally considered controlled substances under Tex. Health & Safety Code Ann. § 481.032(Schedule I opiates)(25),(34), there is an exemption from control when these substances are “specifically excepted.” As discussed above, the 2018 Farm Bill removes, and therefore specifically excepts, hemp-derived CBD from drug control.

We advise you to be mindful of the experience of the Texas Department of Health Services. Last spring, the Department suggested, incorrectly, that CBD is a controlled substance, and outlined a strategy on how to regulate it. After soliciting public comment, and receiving over 1000 negative responses, the Department announced it would delay its consideration, looking to Texas policymakers to weigh in.

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That's precisely what's happening now. The Texas legislature just re-convened in January, and we expect to witness the introduction of at least one piece of legislation that would permanently legalize hemp-derived CBD in Texas. I recently testified before the Texas House Agriculture & Livestock Committee, and received nothing but positive responses. In fact, both the Texas Democratic and Republican party platforms have endorsed pro-hemp legislation.

Given the popularity and safety of hemp-derived CBD, its firm footing under federal law, and the imminent consideration of the Texas legislature, we urge you to stand down on any efforts to prosecute hemp possession and commerce. We would also appreciate the opportunity to speak with you to further discuss this subject.

Sincerely,

Jonathan Miller, General Counsel to the U.S. Hemp Roundtable, Frost Brown Todd, Lexington, KY