



Missouri Department of Health and Senior Services

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Paula F. Nickelson
Director

Michael L. Parson
Governor

September 17, 2024

Charles W. Hatfield
Stinson LLP
230 W. McCarty St.
Jefferson City, MO 65101
Sent via email

Re: Psychoactive Cannabis Enforcement

Dear Mr. Hatfield,

I write to articulate how the Missouri Department of Health & Senior Services will use its authority under state and federal law and under Governor Parson's Executive Order 24-10. This letter is also intended to clarify any misunderstandings about the Department's efforts to keep Missourians and their children safe from psychoactive cannabis products, sometimes called intoxicating cannabis products.

The Department believes that transparency in its enforcement efforts is important to ensure Missourians know about health risks and to promote certainty in the marketplace. As you know, the Department has previously issued a health advisory concerning the potential risks associated with the consumption of hemp-derived intoxicating cannabinoids.¹ I trust that you understand that the consumption of these products may be dangerous, and that under no circumstances should they end up in the hands of Missouri's children. And in recent weeks, Governor Parson directed the Department to take certain actions to combat these dangers via Executive Order 24-10.

The Department will continue to use its unquestioned authority to conduct inspections of food and beverage establishments for violations of state and federal law. The Department agrees that Section 196.070.2, RSMo, passed by the General Assembly in 2018, states that "[a] food shall not be considered adulterated for containing industrial hemp, or an industrial hemp commodity product," and further that Missouri law defines adulterated and misbranded products differently.

In regard to psychoactive cannabis products, the Department will focus its efforts on the identification of "misbranded" products as that term is defined in Section 196.075, RSMo. If the Department identifies any such misbranded products, it will refer those products to the Missouri Attorney General's Office for potential enforcement under the State's Merchandising Practices Act, which, among other things, prohibits "[t]he act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in

¹ <https://health.mo.gov/news/newsitem/uuid/c32bc962-9fad-4a37-a43e-721c6709a8d2/dhss-issues-health-advisory-regarding-risks-associated-with-consumption-of-hemp-derived-intoxicating-cannabinoids>

PROMOTING HEALTH AND SAFETY

The Missouri Department of Health and Senior Services' vision is optimal health and safety for all Missourians, in all communities, for life.

connection with the sale or advertisement of any merchandise in trade or commerce[.]” To that end, the Department will aim to identify products that may violate the Merchandising Practices Act.

All psychoactive cannabis products that the Department has tagged as an embargoed product under Chapter 196, RSMo, since August 1, 2024, will be referred to the Attorney General’s Office for evaluation of Missouri Merchandising Practices Act violations. The Department has no intention at this time to embargo additional psychoactive cannabis products as adulterated. Further, within 30 days after referral to the Attorney General’s Office, the Department will release all currently embargoed products and remove all embargo tags. Once embargo tags are removed, such product will not be subject to an embargo so long as there is no court order prohibiting its sale or ordering its destruction. Pending further action from the General Assembly as to intoxicating cannabis products, the Department believes that channeling future enforcement authority via the Merchandising Practices Act is the best way to ensure that Missouri consumers know what they are purchasing and ingesting, and to keep harmful products out of the hands of children.

In addition, the Department’s efforts are limited to psychoactive cannabis products. Hemp or cannabidiol (CBD) products which are collected by extraction and have not been changed into a new substance, such as hemp protein powders, hemp milk, hemp flower, hemp teas or other drinks, CBD gummies, CBD drink additives, or foods with CBD, have not been embargoed to date.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Moore", with a large, stylized initial "R" and "M".

Richard Moore
Deputy Director and General Counsel