



COLORADO

Department of Revenue

Enforcement Division - Marijuana
455 Sherman Street, Suite 390
Denver, CO 80203

May 15, 2015

Mr. Tom Downey, Esq.
Ireland Stapleton
717 17th Street
Denver CO 80202

Dear Mr. Downey:

I am writing in response to your request for a Statement of Position dated April 2, 2015. My responses are limited to the questions directed to the Marijuana Enforcement Division (MED) related to retail marijuana.

1. "Please verify that products – including products intended for human consumption – containing oil from industrial hemp plants are excluded from the definition of marijuana and therefore exempted from regulation by the MED pursuant to Colorado Constitution, Article XVIII, Section 16(2)(f) and regulations M 103, 1 CCR 212-1 and 212-2."

Industrial hemp, as defined in Colorado Constitution, Art. XVIII, Sec. 16(2)(d), is excluded from the definition of "Retail Marijuana" (Colorado Constitution, Art. XVIII, Sec. 16(2)(f); section 12-43.4-103(15), C.R.S.; and Rule M 103, 1 CCR 212-1 and Rule R103, 1 CCR 212-2.)

2. "Please verify that private individuals and businesses in Colorado that are not subject to regulation by the MED are permitted under Colorado law (specifically C.R.S. 35-61-108(2)) to sell products for human consumption that contain oil from industrial hemp plants."

The question presented for position statement lacks specificity because you did not cite the applicable statutory section of the Medical or Retail Marijuana Code or related regulations that would be relevant to this question. The MED cannot advise private individuals or businesses about matters outside the scope of MED's jurisdiction.

3. "Colorado law prohibits individuals and businesses regulated by the MED from selling alcohol beverages (C.R.S. 12-43.4-402(7)(b)). Please confirm that if individuals and businesses selling products infused with oil from industrial hemp plants are not subject to regulation by the MED, then individuals and business selling alcohol beverages infused with oil from industrial hemp plants would not be in violation of C.R.S. 12-43.4-402(7)(b) or other applicable state laws and regulations."

The scope of this response is limited to the specific statutory provision you cited, section 12-43.4-402(7)(b), C.R.S. The Marijuana Enforcement Division does not take a position

regarding other possible applicable state laws and regulations. So long as the product described in your question is not considered a retail marijuana product, as defined by the Colorado Constitution (Art. XVIII, Sec. 16(2)(k)) and C.R.S. § 12-43.4-103(18), the Marijuana Enforcement Division would not regulate it as such. There may be other state or federal law or regulations that could prohibit such activities.

4. “Would using industrial hemp oil obtained from sources outside the state of Colorado for producing alcohol beverages infused with industrial hemp oil violate the requirements of C.R.S. 35-61-108(2) or other applicable laws and regulations?”

The question presented for position statement lacks specificity because you did not cite the applicable statutory section of the Medical or Retail Marijuana Code or related regulations that would be relevant to this question. However, MED takes no position regarding the lawfulness of industrial hemp oil obtained from outside the state of Colorado because this falls outside the scope and authority of MED.

5. “If the proposed product were produced by infusing pure CBD (rather than oil from industrial hemp plants) into alcohol beverages, would any of your responses to the above questions change?”

No. The question presented for position statement lacks specificity because you did not cite the applicable statutory section of the Medical or Retail Marijuana Code or related regulations that would be relevant to this question. If the CBD oil were extracted from retail marijuana as defined by the Colorado Constitution (Art. XVIII, Sec. 16(2)(f)) and C.R.S. § 12-43.4-103(15), and cultivated at a premises licensed pursuant to C.R.S. § 12-43.4-401 then it would be expressly prohibited pursuant to C.R.S. § 12-43.4-402(7)(b).

6. “Would the presence of trace amounts (below 0.3%) of THC in the final product change your responses to any of the above questions?”

No.

Thank you for your inquiry. If you have additional information or questions, please contact Jim Burack, MED’s Chief of Investigations, at jim.burack@state.co.us.

Sincerely,



Lewis Koski, Director