

# Client Alert

Business Information for  
Clients and Friends of  
Shumaker, Loop & Kendrick, LLP

June 26, 2019



Aebel



West



Maguire

## CBD Oil is Regulated in Florida by the “Hemp Bill” Signed into Law by Governor Ron DeSantis<sup>1</sup>

Erin S. Aebel, Partner | [eaebel@shumaker.com](mailto:eaebel@shumaker.com) | 813.227.2357

Jessica S. West, Associate | [jwest@shumaker.com](mailto:jwest@shumaker.com) | 813.676.7223

Amy Maguire, Principal, Shumaker Advisors Florida, LLC | [amaguire@shumakeradvisors.com](mailto:amaguire@shumakeradvisors.com) | 813.676.7279

On June 25, 2019, Florida Governor, Ron DeSantis, signed Florida Senate Bill 1020, regulating hemp and hemp extract in Florida, which includes state regulation of the popular hemp derivative, cannabidiol (CBD). The bill, which passed in May with nearly unanimous bipartisan support, makes Florida the latest state to enact legislation to legalize and regulate its hemp industry, following similar action at the federal level late last year.

On December 12, 2018, President Trump signed the Farm Bill removing hemp from the list of controlled substances and making it federally legal to grow and sell hemp. Hemp comes from the same cannabis plant that produces marijuana. However, marijuana has much higher levels of tetrahydrocannabinol (THC), the chemical in the plant that is psychoactive and generates a euphoric effect. Both hemp and marijuana have CBD—a medical compound that has health benefits but is non-euphoric. Pursuant to the Farm Bill, hemp is legal as long as it contains no more than 0.3 percent THC. If hemp has more than 0.3 percent THC, it is still a federally banned controlled substance. Hemp can be transformed into a variety of products including, but not limited to, dietary supplements such as CBD oil.

In reaction to the Farm Bill, Florida has now created a framework for institution of a legalized and regulated hemp industry in the state. The new law proposes to create a state hemp program within the Department of Agriculture and Consumer Services (Department) to promote the cultivation, handling, processing, and sale of hemp, hemp products, and hemp extract. Under the proposed regulatory framework, a person seeking to cultivate, handle, process, transport, or sell hemp, hemp products, or hemp extract must register with

the Department Farms or businesses that want to cultivate hemp must provide to the Department the legal land description and GPS coordinates where hemp will be cultivated.

“Hemp extract” is defined as a substance or compound intended for ingestion that is derived from or contains hemp and does not contain any other controlled substances. This includes CBD. Importantly, no one can sell or distribute CBD in Florida without a certificate of analysis prepared by an independent testing laboratory that states that the hemp extract is the product of a batch tested by the laboratory and that the batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry-weight basis pursuant to the testing of a random sample of the batch. The laboratory also must provide that the batch does not contain contaminants unsafe for human consumption.

Further, CBD must be distributed or sold in packaging that includes:

1. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract by an independent testing laboratory;
2. The batch number;
3. The internet address of a website where batch information may be obtained;
4. The expiration date;
5. The number of milligrams of hemp extract; and
6. A statement that the product contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

The Department, in consultation with the Florida Department of Health, is required to initiate rule-making by August 1, 2019. However, the Department is already scheduling hemp workshops all over Florida. These and other Florida hemp related information can be found on the website [www.FreshfromFlorida.com](http://www.FreshfromFlorida.com).

Notably, the new law provides that every state attorney, sheriff, police officer, and other appropriate county or municipal officer shall assist with enforcing this hemp law and its administrative rules. If businesses have been selling CBD or other hemp related products prior to this law, they need to review their operations and make sure they are in compliance with this new Florida law.

Erin S. Aebel is a Board Certified Health Lawyer and a partner at Shumaker, Loop & Kendrick, LLP. Jessica S. West is an associate attorney in the Health Law practice group at Shumaker, Loop & Kendrick, LLP. Amy Maguire is a principal of Shumaker Advisors Florida, LLC. They can be reached at 813.229.7600, [eaebel@shumaker.com](mailto:eaebel@shumaker.com), [jwest@shumaker.com](mailto:jwest@shumaker.com), and [amaguire@shumakeradvisors.com](mailto:amaguire@shumakeradvisors.com).

---

<sup>1</sup> This article is published for general information purposes only. It does not constitute legal advice and does not necessarily reflect the opinions of the firm or any of its attorneys or clients. The information contained herein may or may not be correct, complete or current at the time of reading. The content is not to be used or relied upon as a substitute for legal advice or opinions. No reader should act or refrain from acting on the basis of the content of this article without seeking appropriate legal advice. This article does not create or constitute an attorney-client relationship between the authors, Shumaker, Loop & Kendrick, LLP and the reader.

shumaker.com

