

**From:** [Cheryl Bowie](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Subject:** Marijuana Plant Material Available from the NIDA Drug Supply Program  
**Date:** Tuesday, June 25, 2019 5:12:16 PM

---

Marijuana Plant Material Available from the NIDA Drug Supply Program  
<https://t.co/v1TIFu0k9h>

**Table 1 - Marijuana Cigarettes (RTI)**

<b>Batch No.</b>	<b>THC</b>	<b>CBD</b>	<b>%THC</b>	<b>%CBD</b>	<b>%CBC</b>	<b>%CBG</b>	<b>%CBN</b>	<b>%THCV</b>
12792-1208-77	Medium	Low	2.000	0.020	N/A	N/A	0.470	N/A
10074-0301-97	Medium	Low	2.800	0.080	N/A	N/A	0.220	N/A
12792-0109-120	Medium	ND	3.600	ND	N/A	N/A	0.270	N/A
12792-0109-146	High	ND	5.600	ND	N/A	N/A	0.400	N/A
10604-0203-95	High	ND	6.700	ND	N/A	N/A	0.490	N/A
12944-0509-105	Placebo	Placebo	0.002	0.001	N/A	N/A	0.004	N/A

Legend - Low = <1%; Medium = 1-5%; High = 5-10%; ND = Not detected, N/A = Not available

Note: %THC contents may vary with time and storage conditions. Therefore researchers should inquire about latest THC strength before submitting their request.

**From:** [Marijuana Licensing \(CED sponsored\)](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Cc:** [Marijuana Licensing \(CED sponsored\)](#)  
**Subject:** Public Objection/comment for Tok area  
**Date:** Thursday, July 25, 2019 9:37:24 AM  
**Attachments:** [Objection Comment.pdf](#)

---

This is a public objection/comment for marijuana establishments in Tok area. Not specific to an application/license: for MCB email.

*Jane Sawyer*

Occupational Licensing Examiner

Alcohol and Marijuana Control Office

907-269-0350

**From:** CEDP-TUNDRASHREW <CEDP-TUNDRASHREW@alaska.gov>  
**Sent:** Thursday, July 25, 2019 9:29 AM  
**To:** Sawyer, Jane Preston (CED) <jane.sawyer@alaska.gov>  
**Subject:** Objection Comment

7-18-2019

To: Director of AMCO

From: Arron Atchley  
Alcan Technical Laboratories  
PO Box 525  
Tok, AK 99780  
907-883-5257

Dear Director,

I am writing to voice my objection to providing a license for the sale of Marijuana here in Tok.

My business is providing drug screen collections DOT (State of Alaska and other businesses) and nonDOT onsite testing for pre employment. There are reasons the State of Alaska rejects personnel that are positive for marijuana. That should be sufficient data to reject the sale of marijuana here in Tok as the Alaska Highway with a high volume of traffic (also tourists) would be in danger from other drivers impaired by marijuana.

I am also an EMT with Tok Area EMS and we respond to a sufficient number of accidents involving MVA and ATV and we may not have proof of marijuana, but the youth involved is suspect to marijuana intake.

As of todays date (according to this evenings meeting) we are currently short by 85 runs from last years total.

Sincerely,

  
Arron Atchley

*By mail  
Not specific to an application/license*

AMCO

JUL 22 2019

**From:** [Marijuana Licensing \(CED sponsored\)](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Cc:** [Marijuana Licensing \(CED sponsored\)](#)  
**Subject:** General Objection to MJ in Tok  
**Date:** Tuesday, July 30, 2019 8:50:38 AM  
**Attachments:** [General Objection to MJ in Tok.pdf](#)

---

The attached general objection to marijuana establishments in Tok is to go with the emails-packet for the MCB.

Thank you

*Jane Sawyer*

Occupational Licensing Examiner

Alcohol and Marijuana Control Office

907-269-0350

**From:** CEDP-TUNDRASHREW <CEDP-TUNDRASHREW@alaska.gov>  
**Sent:** Tuesday, July 30, 2019 8:46 AM  
**To:** Sawyer, Jane Preston (CED) <jane.sawyer@alaska.gov>  
**Subject:** General Objection to MJ in Tok

7-23-19

**DETERMINED OPPOSITION TO A POT STORE IN TOK-**

**LAWFUL NOTICE TO THE CONTROL BOARD**

**READ ALL CONTENTS**

WE THE RESIDENTS OF TOK VERY STRONGLY OPPOSE ANY MARIJUANA RELATED BUSINESS IN OR NEAR OUR COMMUNITY. THIS IS A DEBLITATING DRUG THAT DESTROYS CHILDREN, TEENS, ADULTS AND FAMILIES. YES TEENS FIND A WAY TO GET THIS CRAP IF IT IS IN THE AREA. THERE IS NO SAFE USE OF MARIJUANA, NOT EVEN "MEDICAL" MARIJUANA. THAT IS A ROUSE TO SIMPLY BE ALLOWED TO USE THE CRAP (MARIJUANA). IF A STORE IS OPENED IN TOK, AND ANY OF MY FAMILY IS SUBJECTED TO THE ILLS OF THIS CRAP, I WILL VIGOROUSLY GO AFTER THOSE RESPONSIBLE. THERE IS NO REASON FOR THIS CRAP TO BE ALLOWED. THE ONLY REASON LEGALIZATION PASSED IS BECAUSE DRUG INDUCED PEOPLE VOTED IT IN. NORMAL TAXPAYING ALASKANS STRONGLY OPPOSED THIS EFFORT. THE USE OF MARIJUANA WILL LED TO HARDER DRUG USE, INCREASED CRIME, AND ASSAULTS. ISN'T THERE ENOUGH CRIME ALREADY? IT IS TIME TO STOP ALL MARIJUANA SALES AND USE AT ALL COSTS. OTHERWISE, WE ARE DESTROYING FUTURE GENERATIONS.

THE ONLY REASON THEY WANT TO SELL THIS CRAP IS FOR PROFIT. THEY DO NOT CARE ABOUT OUR COMMUNITY OR ITS WELL BEING. THEY COULD CARE LESS ABOUT THE LIVES THEY WILL DESTROY AS LONG AS THEY MAKE A PROFIT.

THE STATE OF ALASKA IS WRONG TO ALLOW THE SALE OF THIS CRAP. THE VOTERS VOTED IT IN. IF THE VOTERS APPROVED A MASURE ALLWOING US TO HARM OTHERS AT WILL, WOULD THE STATE OF ALASKA APPROVE THAT? JUST BECAUSE IDIOT VOTERS APPROVE A MEASURE DOES NOT MEAN THE STATE HAS TO ALLOW IT. THE STATE HAS THE RESPONSIBILITY FOR SAFETY AND SECURITY OF ITS RESIDNETS, ALLOWING MARIJUANA SALES IS NEGLIGNECE BASED ON THIS REQUIREMENT. AT A MINUMUM, I WILL SUE THE STATE OF ALASKA FOR KNOWINGLY ALLOWING CRIME TO INCREASE WHEN I AN HARMED DUE TO THIS CRAP IN TOK, AND ALL THE OWNERS AND THIS BOARD WILL PERSONALLY BE SUED AT A MINIMUM. THIS IS NEGLIGENCE PURE AND SIMPLE. YOU HAVE VIOLTED OUR TRUST BY ALLOWING MARIJUANA SALES. YOU HAVE NOT DONE YOUR DUE DILIGNECE TO DETERMINE THE LONGTERM HARMFUL EFFECTS OF THIS CRAP. NO CONSIDERATION AT ALL TO THE DESTRUCTIVE NATURE OF THE CRAP.

I HAVE INCLUDED ARTICLES THAT STATE LEGAL MARIJUANA SALES LEAD TO AN INCREASE IN CRIME AND THEN ON TO HARDER DRUG USE. WHERE IS YOUR SANITY?

DONALD DAVIDSSON, JOHNATHON GUEST, THE STATE OF ALASKA, AND THE FOLOWING BOARD MEMBERS WILL BE SUED PERAONALLY AND AS AN ENTITY FOR NEGLIGENCE IN ALLAOWING A MARIJUANA STORE TO BE OPENED IN TOK IF I INCURR ANY PROPERTY CRIME

AMCO

JUL 29 2019

*Scanned for MCB mailbox: Not specific to an application. 7.30.19*

IN THE FUTURE. YOU KNOWINGLY INVITE ADDITIONAL CRIME INTO OUR AREA. THAT IS A DOCUMENTED FACT WHICH IS EASILY SUBSTANTIATED IN A COURT OF LAW.

ALCOHOL & MARIJUANA CONTROL OFFICE

**Alcoholic Beverage Control Board Members**

Position	Name	Type	Location	Expiration
Board Chair	Bob Klein	Industry	Anchorage	03/01/2020
Member	Rex Leath	Public Safety	Wasilla	03/01/2020
Member	Charlie Cross	Rural Public	Nome	03/01/2022
Member	Sara Erickson	Public	Kenai	03/01/2021
Vice Chair	Glenn Brady	Industry	Fairbanks	03/01/2021

HAVE YOU POSTED NOTICES THAT THE USE OF MARIJUANA IS A FEDERAL CRIME, THAT YOU ARE NOT ALLOWED TO OWN, USE, OR BE AROUND FIREARMS OR AMMUNITION? NOT JUST WHILE CONSUMING BUT ALSO IF USED AT ANY TIME YOU ARE PROHIBITED FROM ACCESS TO FIREARMS, PERIOD. IF YOU DO NOT NOTIFY USERS THEY MUST SURRENDER THEIR FIREARMS WHEN CONSUMING THIS CRAP, BASED ON FEDERAL LAW, YOU ARE NEGLIGENCE IN THIS ASPECT ALSO. THIS MEANS THAT USERS OF MARIJUANA IN ALASKA FOR THE MSOT PART WOULD NOT BE ALLOWED TO HUNT, THEY GIVE UP THEIR HUNTING RIGHTS. IF THE STATE OF ALASKA DOES NOT ADVISE USERS OF THIS FACT, THAT IS NEGLIGENCE AND THE STATE IS SUBJECT TO FEDERAL PROSECUTION AS WELL, BASED ON ATF DATA. I UNDERSTAND THE ATF HAS ACTIVELY PROSECUTED OVER 83,000 USERS OF RECREATIONAL MARIJUANA IN THE LOWER 48 FOR FIREARMS POSSESSION. IS THIS BEING TOLD TO ALASKAN USERS? IS IT POSTED AT THE ENTRANCE TO THE FACILITY? AGAIN NOT JUST WHILE USING, BUT ALSO IF IT IS THEIR PRACTICE AT TIMES TO USE THE CRAP OCCASIONALLY, THEY CAN NEVER POSSESS A FIREARM AT ANY TIME. THAT IS FEDERAL LAW. THEY CANNOT USE MARIJUANA ON FEDERAL PROPERTY, WHICH ALASKA HAS A LOT OF. A CONVICTION OF FIREARMS POSSESSION AND MARIJUANA USE IS ON THEIR CRIMINAL RECORD FOR LIFE. HAVE YOU POSTED THIS NOTICE?

HAVE YOU ADVISED OUR LOCAL PROPERTY OWNERS THAT THEIR PROPERTY VALUES WILL DECLINE WHERE MARIJUANA OUTLETS ARE OPENED? WHO WANTS THIS CRAP IN THEIR NEIGHBORHOOD?

THESE ARE UNDISPUTABLE FACTS, NOT HERESAY OR WISHFUL THINKING. THE FACTS ARE CLEAR.

NAMES OF THOSE OBSERVED ENTERING THE POT STORE, PHOTOS OF THOSE ENTERING ANY POT STORE, AND LICENSE NUMBERS OF VEHICLES IN THE PARKING LOT WILL BE PROVIDED TO THE ATF IF A STORE IS OPENED IN TOK. THE ATF THEN CAN CROSS REFERENCE THOSE USERS OF THIS CRAP WITH FIREARMS OWNERSHIP RECORDS, HUNTING LICENSE RECORDS,

**AMCO**

**JUL 29 2019**

AND HARVEST TICKET REPORTS FOR FELONY CONVICTIONS OF THOSE WHO VIOLATE FEDERAL FIREARMS LAWS. USERS CANNOT AT ANY TIME HAVE ACCESS TO OR USE A FIREARM FOR ANY PUPOSE, PERIOD!! WE WILL ALSO PROVIDE THE NAMES OF THE BOARD MEMBERS TO THE ATF FOR PROSECUTION FOR ANY CONVICTIONS AS THEY AUTHORIZED THE OPENING OF A FEDERALLY RECOGNIZED ILLEGAL OPERATION, AND THEY KNOWINGLY WERE ACCOMPLICES IN REGARDS TO A FELONY CRIME BEING COMMITTED BY USERS ONCE THEY ARE CONVICTED BY THE ATF. YOU CANNOT CLAIM YOU WERE INNOCENT.

ARTICE VII OF THE STATE CONSTITUION STATES THE STATE OF ALASKA SHALL PROVDE FOR THE WELFARE OF ITS RESIDENTS. HOW IS ALLOWING MIND ALTERING, LIFE DESTROYING USE OF A PRODUCT PROVIDING FOR THE WELFARE OF THE STATE'S RESIDENTS? THIS IS INSANITY!!

WE WILL WORK CLOSELY WITH THE ATF TO ASSIST THEM AND TO FULLY ADVISD THEM ON A REGULAR BASIS IN REGARDS TO THOSE ENERTING THE POT IN TOK. THIS IS A FEDERAL FELONY CRIME!

**THE ALASKA HIGHWAY IS A FEDERAL HIGHWAY. THAT IS A HUGE PROBLEM FOR YOU AND THIS STORE. YOU WOULD BE BREAKING FEDERL LAW!**

Trying to reduce opioid overdoses while legalizing marijuana is similar to putting kerosine on a fire and expecting the fire to go out!.



MICHAEL HENTON

TOK LONG TIME RESIDENT

AMCO

JUL 29 2019

## **The High Cost of Recreational and Medical Marijuana to Firearms Owners**

Posted by guntrustguru on October 17, 2017 in 18 USC 922, ATF Form 4473, Marijuana, Medical Marijuana, NFA Gun Trusts, Recreational Marijuana. 0 Comments

The use or possession of marijuana is illegal under Federal law. However, 29 states and the District of Columbia currently have laws broadly legalizing marijuana in some form. In addition, seven states, Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, and Washington, as well as the District of Columbia have adopted the most expansive laws legalizing marijuana for recreational use.

Suppose that you are a recreational or medical user of marijuana. How does this affect your right to possess and receive firearms under Federal law?

**Under 18 U.S.C. § 922(g), it is unlawful for any person who is an unlawful user of or addicted to marijuana to possess or receive any firearm or ammunition. See 18 U.S.C. § 922(g). It also illegal to sell or provide firearms or ammunition to any person knowing or having reasonable cause to believe that the person is an unlawful user of or addicted to marijuana. See 18 U.S.C. § 922(d).**

When you purchase a firearm from a licensed firearms dealer, you are required to complete an ATF Form 4473. Question 11(e) **asks whether you are an unlawful user of, or addicted to, marijuana.** In addition, the ATF form states in bold:

**Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medical or recreational purposes in the state where you reside.**

In addition, **the ATF form requires you to certify that your answer to the question is correct and that you understand that, if you answer "yes" to Question 11(e), you are prohibited from purchasing or receiving a firearm.**

**In conclusion, if you are a recreational or medical user of marijuana, you have forfeited your right to possess or receive firearms under Federal law.**

AMCO

JUL 29 2019

Apr 27, 2017

## Legal marijuana stores lead to increases in property crime

COLUMBUS, Ohio – Legal marijuana shops are linked to higher levels of property crime in nearby areas, according to a nearly three-year study in Denver.

Researchers found that crime isn't higher in the area immediately surrounding marijuana outlets. But adjacent areas saw about 84 more property crimes per year than neighborhoods without a nearby marijuana store.

In Denver, no significant increase in violent crime was seen as a result of marijuana sales.

The results show that legal marijuana sales come with a cost, said Bridget Freisthler, lead author of the study and professor of social work at The Ohio State University.

"If you're looking strictly from a public health standpoint, there is reason to be somewhat concerned about having a marijuana outlet near your home," Freisthler said.

Putting this risk in context, marijuana outlets led to similar levels of property crime as bars, liquor stores and restaurants that serve alcohol, data from the study suggests. And businesses that sold alcohol led to much more violent crime than marijuana outlets.

The study was published online today in the *Journal of Primary Prevention*.

The researchers examined crime statistics for 481 Census block groups in Denver over 34 months (January 2013 to October 2015). When the study began, marijuana could only be sold for medical purposes. But beginning in January 2014, marijuana outlets were able to sell to the general public, giving the researchers the opportunity to see if recreational sales were tied to increases in crime.

They examined three types of crime, based on data from the Denver Police Department: Violent crime, property crime and marijuana outlet specific crime.

The change in the law allowing recreational sales did not result in an increase in crime, results showed.

"It is the number and density of outlets that is important, not whether they are medical or recreational," Freisthler said.

But there is a caveat to that finding. After the law was first changed to allow recreational sales, only those dispensaries that already were selling for medical purposes were allowed to apply for a license to sell recreational marijuana in Colorado.

As a result, the number of outlets didn't change much.

This is the second study Freisthler and colleagues have published on crime and marijuana outlets. The earlier study, published last year, was done in Long Beach, Calif. In both studies, property crimes didn't increase right next to the outlet, but in the adjacent neighborhood.

That's probably because the dispensaries often have security guards and cameras keeping an eye out on the immediate area, Freisthler said.

"The areas we examined in our study were relatively small (about a third of a square mile), so a guard could conceivably be keeping criminals away from the neighborhood directly surrounding the outlets," she said.

One way to understand the effect of marijuana stores on crime is to compare them to places that sell alcohol.

AMCO

JUL 29 2019

Data from the study showed that marijuana outlets contributed to 1,579 property crimes in Denver over 34 months, compared to the combined alcohol outlet contribution of 1,521.

"The levels of property crimes were similar, although marijuana outlets were responsible for slightly more," Freisthler said.

Alcohol outlets, however, were responsible for about four times more violent crimes during the 34 months of the study than those that sold marijuana (372 vs. 93).

But Freisthler cautioned that a direct comparison is difficult because the effects related to marijuana outlets take into account crimes in local and adjacent areas while the data for alcohol outlets only look at adjacent areas.

Still, she said it is concerning that there is this level of crime associated with marijuana sales, despite the fact that the density of marijuana outlets is much lower compared to that of alcohol outlets. "Over time, as marijuana grows in popularity, densities of marijuana outlets may increase, resulting in higher crime," Freisthler said.

While this study did not find a significant increase in violent crime related to marijuana shops, the study in Long Beach did. That suggests it is too early to say that legal marijuana sales don't result in significantly more violent crime, she said.

This new study did find, not surprisingly, that legal sales were linked to an increase in burglaries and other crimes at marijuana outlets themselves.

From the data in the study, the researchers can't tell who is committing the crimes and who the victims are in the nearby neighborhoods. Customers of the marijuana outlets could be the victims or the perpetrators, according to Freisthler.

"That's important to know, because residents may want to mobilize if they are the victims of increased crime. But if it is not the residents being victimized, they may not care as much," she said.

Freisthler said the findings of this, as well as her previous study, suggest there are reasons for citizens to be cautious about legal marijuana sales.

"There are definitely negative public health consequences, including increased crime," she said. "There may be economic benefits in terms of more tax revenue and money spent in neighborhoods. Citizens have to decide how they want to measure the benefits and costs."

Freisthler conducted the study with Andrew Gaidus, William Ponicki and Paul Gruenewald of the Pacific Institute for Research and Evaluation; and Christina Tam of UCLA.

The research was supported by grants from the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse.

AMCO

JUL 29 2019

## Marijuana legalization and Opioid Overdoses....understand the link.

Three basic types of marijuana:

1. Indica depressant- 'in du couch'
  2. Sativa- stimulant- more hallucigenic, more energy (often people think they are more focus.. for example when driving.. however marijuana causes tunnel vision, slower reflexes and delayed thought processes...not exactly good for driving)
  3. Hybrid- mix of the two type
- Other terms - often based on effects, geographic locations, packaging, appearance, word, deception... for example: Walter White (Sativa- meth like effects); Green Crack, Dab Out, Dabbing out, ...
  - JTR- Jack the Ripper 70% THC
  - Kush- a brand of marijuana (Kr8zy Kush- 96% THC Most of the testing was done with THC levels of 3-6%; Today's THC is 20-30% for flowers, 25-90% for Dabs.
  - Concentrates - refers to weed dabs

### FACTS TO CONSIDER WHEN LABELING MARIJUANA A MEDICINE VIA BILLS OR AMENDMENTS

**Legalizing medicine via popular vote does not magical make it a standardized, tested, disease specific drug with guidelines for usage. Throughout the years there have been multiple studies in a controlled environment using marijuana as a medicine. However the fact remains that in most cases marijuana does not meet the benchmarks to produce a standardized medication with disease specific application. As a medicine or recreational use it is unpredictable and far too variable even within the same crop. In 1985 a Rx drug Marinol was approved and several other canibasis-based valid medications followed.**

There is no arguing that regulating alcohol and prescription drugs is more than challenging. Abuse often leads to addiction complications, family problems, illegal activities, police records, fatal car crashes ... and now society has decided to legalize a drug that can be grown in backyards and expects to establish regulatory guidelines. Does this seem possible? Hardly!

**Legalization** or marijuana whether under the guise of a medicine or for straight out recreation always produces an **increase in youth and overall usage** (which is what the marijuana industry (producers and dealers desire), highway crashes, addiction, unemployment, homeless, crime, other drug use, insurance costs, pot shops lining streets ... and a decreases the perception of harm... NOT SAFE FOR OUR CHILDREN & NOT SAFE FOR OUR COMMUNITY.

1. **Risks** and consequences outweigh any potential or perceived benefits
2. **Smoking** is not healthy... also consider second hand smoke
3. **Medical Associations**- No medical association supports legalization via popular vote or legislative bills. This is circumventing the guidelines for safety, testing, standard of care for use.

AMCO

JUL 29 2019

4. **Prescription cannabis-based** medicines have existed since 1985 and are not typically the first line of treatment because other medications have proven to be better. If marijuana were a 'miracle' drug wouldn't the pharmaceutical companies be researching it and putting millions of dollars into the production?
5. **Alcohol and Prescription Medications- REGULATED DRUGS-** take the lives of victims of addiction and many innocent people plus affect family & friends who often never recover. Do you think legalizing a drug that can be grown in someone's backyard can be regulated?
6. **Driving Impaired-** Difficulty staying in traffic lane, slower reaction times, difficult judging distances, slower decision making, reduced peripheral vision (tunnel vision) reduced coordination. You don't have to use marijuana to be a victim on our roadways.
7. Marijuana is an hallucinant when mixed with other drugs the effects are expediential.
8. **Determining level of impairment for marijuana users is complex.**

**Do we really need another mind-altering drug legalized given our country's problem with alcohol the second leading cause of preventable deaths. What do you think our society would be like if 52% of the population smoked pot? (The same percentage of people who drink alcohol.)**

**Who is the driving force behind this legalization? NOT DOCTORS, NOT MEDICAL ASSOCIATIONS, NOT RESEARCH, NOT THE FDA, NOT LAW ENFORCEMENT....** Organizations that want to legalize all drugs, drug dealers, some personal injury attorneys, scam artists posing as entrepreneurs, and misinformed people being persuaded by preying on emotions and false hope.

AMCO

JUL 29 2019

**From:** [Marijuana Licensing \(CED sponsored\)](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Cc:** [Marijuana Licensing \(CED sponsored\)](#)  
**Subject:** Comment for Tok from Bill Urban  
**Date:** Thursday, August 08, 2019 12:50:57 PM  
**Attachments:** [Comment for Tok.pdf](#)

---

Please add this attached comment for Tok in the MCB email packet.

Thanks

*Jane Sawyer*

Occupational Licensing Examiner

Alcohol and Marijuana Control Office

907-269-0350

**From:** CEDP-TUNDRASHREW <CEDP-TUNDRASHREW@alaska.gov>  
**Sent:** Thursday, August 08, 2019 12:47 PM  
**To:** Sawyer, Jane Preston (CED) <jane.sawyer@alaska.gov>  
**Subject:** Comment for Tok

August 1, 2019

THERE IS NO BENIGN INFLUENCE ON  
OUR COMMUNITY BY THE PRESENCE  
OF A MARIJUANA STORE. NO POSITIVE  
BENEFIT WHATSOEVER FOR OUR TOWN OR  
OUR YOUNG PEOPLE, MOST PARTICULARLY.  
IF THE 'OPEN MINDED' NEW AGE CULTURE  
HAS EVER PRODUCED ANY GOOD IN ITS  
PROMOTION OF SIN, GODLESS REBELLION  
AND VARIOUS FORMS OF INTOXICATION, IT IS  
NOT EVIDENT TO ANY RATIONAL BEING.  
CONSIDER YOUR CHILDREN AND GRANDCHILDREN.  
WHAT DO YOU WANT THEM TO BE?

WE OPPOSE THIS 'BUSINESS'

Bill Winters

BILL WINTERS  
P.O. BOX 272  
TORONTO, ONT M8B 0P7

Not specific to an application; to use index.  
Postcard sent. 8-8-19 gww

AMCO

AUG - 7 2019

**From:** [Marijuana Licensing \(CED sponsored\)](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Cc:** [Marijuana Licensing \(CED sponsored\)](#)  
**Subject:** FW: Store in Tok  
**Date:** Friday, August 16, 2019 1:22:57 PM

---

For MCB email.

Jane

**From:** pmilanowski@compuserve.com <pmilanowski@compuserve.com>  
**Sent:** Friday, August 16, 2019 8:22 AM  
**To:** Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>  
**Subject:** Store in Tok

Dear AMCO,

Admittedly, the lure of incorporating our town's name into a catchy name for a marijuana sales joint makes Tok an irresistible no brainer target for such an establishment.

But given all the heartache, grief and brokenness wrought by drug use and abuse upon individuals, families and communities in our region, how does it make any sense to facilitate, promote and flaunt it? Voting it legal didn't all of a sudden make it helpful, better or desirable. There are reasons why people in safety dependent occupations are screened for drug use. Are we really serious about giving young people, among others, the best possible shot at a secure, meaningful and productive future? Shouldn't we strengthen, rather than undermine, the prospects of a bright future for the people we care for and about?

Please carefully and thoughtfully think it through, and for the reasons stated, move and take a stand to reject the granting of a marijuana sales license anywhere near Tok, no matter how clever or innocuous a name may be applied.

Respectfully submitted,

Paul Milanowski, Jr.  
Box 101  
Tok, AK 99780

**From:** [Jonathan Strong](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Subject:** Regulations public comment  
**Date:** Tuesday, August 20, 2019 11:36:07 AM

---

At the previous two MCB meetings, comments were made advocating for a regulation project to address child care accessibility in our industry. Please consider starting this regulations project. To help move this forward, here is draft regulatory language to allow for child care access in licensed premises. Thank you.

3 AAC 306.710

(c) ... **Except as provided in (d)**, a person under 21 ...

**(d) For childcare purposes, a child under 5 years of age may enter a restricted access area, when accompanied by their legal guardian who is a licensee, employee, or agent of the marijuana establishment. The child's access shall be limited to areas such as office space, that are not where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.**

--

Jonathan Rupp Strong, Ph.D.  
Scientific Director, CannTest, LLC  
front desk: 907-258-6878  
cell: 907-202-6484

**From:** [Cheryl Bowie](#)  
**To:** [Marijuana, CED ABC \(CED sponsored\)](#)  
**Subject:** CSAT National Advisory Committee  
**Date:** Thursday, August 22, 2019 5:11:50 PM  
**Attachments:** [1562339481305\\_DNR\\_Industrial\\_Hemp\\_Pilot\\_Program\\_public\\_comment\\_@dreamgbutterfly\\_botanicals.pdf](#)  
[Bowie\\_dreamgbutterfly\\_botanicals\\_Docket\\_No.\\_FDA-2019-N-1482\\_for\\_Scientific\\_Data\\_and\\_Information\\_about\\_Products\\_Containing\\_Cannabis\\_or\\_Cannabis-Derived\\_Compounds;\\_Public\\_Hearing;\\_Request\\_for\\_Comments..pdf](#)  
[Bowie\\_dreamgbutterfly\\_botanicals\\_FDA\\_FY2019\\_Generic\\_Drug\\_Regulatory\\_Science\\_Initiatives\\_Public\\_Workshop\\_Feedback.pdf](#)  
[USDA\\_AMS\\_August\\_Meeting\\_AMS-SC-19-0061\\_Bowie.pdf](#)  
[HempExecSumandLegalOpinion.pdf](#)

---

I was invited to the CSAT NAC committee online yesterday out of the blue.

CSAT August Meeting

<https://www.samhsa.gov/meetings/csat-national-advisory-council-meeting-august-2019>

It seems like they just wanted my public comment so I sent them the following.

One of the things the corrections report identified was the desire and need law enforcement had to be able to drop people off who are high that isn't the emergency room or jail.

There will actually be peer support funding for it but it has to be connected to linkages of care and things like a washeteria And similar services. It may be a way to help pay for day services in some places that have the need and if you include some of the RUS urban AG money or opioid fighting money some of these systems can help retrofit and upgrade energy systems and communications while helping reduce cost of care and public safety burden for nonviolent nonemergency issues and needs. I pasted what I sent below.

I'd use part of my income to pay for hep c treatments for those identified in the reports.

Sincerely,

Cheryl Bowie  
@dreamgbutterfly botanicals  
9079036513

The following is what I forwarded....

Just a general update to help people identify what's happening in other places.

Regarding on-site consumption, when I attended the Health Summit 2.0 in Alaska with Jim Carrol attending it last year there were justice reform programs seeking peer support funding and others seeking drug replacement approvals that included using cannabis as a replacement.

On-site consumption can take many forms from research, medical and adult use are just a few but in the height of the drug war we need to have all tools available and cannabis is providing a safe means for millions of people across the country to reduce their use and dosages of dangerous drugs such as opioids.

I support on-site consumption and I hope the city council supports our industry.

Furthermore, patients cannot be forced to the streets to consume medical marijuana, it's legal in many states and the laws and policies should reflect the legal status of these programs.

Industrial Hemp: The following information about the USDA Hemp Production Program and Frequently Asked Questions about USDA NIFA research has been updated since passage of the 2018 Farm Bill. <https://t.co/IRDw09EIO2> <https://t.co/SQirVGRjgg>

USDA Clarifies Industrial Hemp Production for Indian Tribes  
<https://t.co/RbpIFZU4VX>

Listen to my testimony starting at 2:13:36 (Cheryl Bowie with @dreamgbutterfly botanicals).  
2018 Farm Bill Webinar on Domestic Hemp Production Program Follow-up  
<https://t.co/drCh8RBhFH> <https://t.co/hx6Com6zs2>

CannaComments  
<https://t.co/J0bYHHNG49>

Legal Opinion on Authorities for Hemp Production <https://t.co/zM5RL78dcJ>  
<https://t.co/8YVadaonIb>

FULL COMMITTEE HEARING: Challenges for Cannabis and Banking: Outside Perspectives  
<https://t.co/UkQoUMWO8T>

I encourage you to support the medical and research aspect of this industry. Patients need more representation.

Sincerely,

Cheryl Bowie  
@dreamgbutterfly botanicals  
[cherylbwab@gmail.com](mailto:cherylbwab@gmail.com)  
9079036513



@dreambutterfly botanicals

To: Robert Carter, Division of Agriculture at 5310 South  
Bodenburg Spur, Palmer, Alaska 99645

From: @dreambutterfly botanicals  
Cheryl Bowie

Re: BRIEF DESCRIPTION: The Department of Natural Resources, proposes to develop an industrial hemp pilot program to implement amendments to and new provisions in AS 03.05 and AS 11.71.900, enacted under Chapter 5 SLA 2018 (SB 6).

My name is Cheryl Bowie with @dreambutterfly botanicals. I'm part Inupiaq Eskimo from the Northwest Arctic of Alaska. Thank you for the opportunity to submit testimony on hemp.

Many states are creating busy friendly environments to include hemp in the forward looking estimates for planning and development. There are many stakeholders working in Hemp and although not as touted as the other medical or adult use programs the Hemp industry has been growing steadily across almost all states in the union.

I recommend checking in with other Hemp programs happening across the country to identify strengths and challenges. Many farmers in similar meetings over the past year expressed interest and concerns regarding price gouging on seeds, different growing seasons and whatnot. I was impressed with some of their sticking points and prices.

I think that there should be a period of time where people learn about the growth and relative plant profile to establish a norm before setting a potentially detrimental or poorer quality product due to setting standards like .3 THC.

I recommend allowing for an alternative option other than seizing someone's property or farm if they produce a crop that is higher than the set standard especially during the first initial years. I believe there is a lot of interest in this field across the board from the private sector to the military.

I attend online meetings and webinars with different agencies multiple times a week at this point and there is a lot of interest in this field and other urban agriculture efforts. I included some recent initiatives that have been happening.

Industrial Hemp. The following information about the USDA Hemp Production Program and Frequently Asked Questions about USDA NIFA research has been updated since passage of the 2018 Farm Bill. <https://t.co/IRDw09EIO2> <https://t.co/SQirVGRjgg>

USDA Clarifies Industrial Hemp Production for Indian Tribes <https://t.co/RbplFZU4VX>

The USDA Agricultural Marketing Service recently held the 2018 Farm Bill Hemp Listening Session that 49 different people spoke at and I am fortunate to have been included as one of them! They included and Alaskan. My testimony starts at 2:13:36, and can be listened to at the following link: <https://zoom.us/recording/share/q1hdqA4gQo8JxMO4iF7Hrpe660Wbs46-8RYC4r7hp0CwIumekTziMw>

I look forward watching the regulatory field change to identify areas that need clarity, efficiency and uniformity. I encourage you to create a cohesive business friendly avenue for people to gain entry into the field or area of agriculture, science, research and commerce. I think plants like hemp should be unclassified and state regulated.

There are going to be so many changes and so much growth for the foreseeable future, it's really exciting to me. There is finally a new way to measure and regulate science, commerce and the drug or healthcare industry. I think we are really stepping into a new era. Commerce is changing right now and I believe we will have more local stakeholder involvement as foreign manufacturing is being reviewed comparatively to new state efforts. The time of only be watchful is coming to pass; I believe it's time to get this industry off and running. Thank you once again for the opportunity to submit testimony and for your consideration. Let's grow Alaska!



@dreamgbutterfly botanicals

To: US Food and Drug Administration (FDA)

From: @dreamgbutterfly botanicals

Re: Docket No. FDA-2019-N-1482 for “Scientific Data and Information about Products Containing Cannabis or Cannabis-Derived Compounds; Public Hearing; Request for Comments.”

My name is Cheryl Bowie with @dreamgbutterfly botanicals. I’m part Inupiaq Eskimo and hopefully with the Stigler Act Amendment I’ll be able to say I’m a descendant of the Choctaw and Chickasaw Nations. Thank you for the opportunity to submit testimony.

I’ve been working on a project studying the impacts of cannabis on our communities since a former fellowship initially called Desire vs Fact: How Cannabis is Affecting Our Communities. Measuring safety is something that can be done in various ways such as measuring the reduction of different procedures or mixed drug doses a person with a chronic condition faces every day.

There are many benefits to cannabis compounds and it is helping reduce the use of opioids and the number of procedures for some conditions such as spasticity. Reducing unnecessary procedures such as injections in outpatient settings or reducing the dosages of prescriptions as a result of finding a safer drug if it’s cannabis or otherwise should be the FDA’s main goal even if it has faced decades of bad press from a long ago and outdated era in history.

Medicine and drug development is changing largely due to precision medicine and agriculture helping us to ultimately establish more realistic and applicable policies in health, medicine, drugs and crime.

There are exciting new regulatory frameworks designed to build public trust and engagement such as adult use initiatives. I cannot express what a prime opportunity it is to provide health education, an increased understanding of chemistry, biology and medicine while stimulating the economy and increasing interest in STEM.

Providing an accessible legal platform for people to learn about and openly engage in drug development or related activities that are out of reach for the general public is a start to increase safety in ways I am sure each community would like to tell you about directly. This is also a time that many agencies appear to be revisiting policies critical to how we set, measure and evaluate important industry standards. Transparency and inclusion in these processes will do a lot to further the growth and understanding of the practical and legal aspects of STEM furthering diversity and growth of this industry.

Including all community members is critical to the success or failure of these programs. Dispensaries seem to operate as a gap coverage plan for people who need assistance to obtain access due to health, insurance, financial and other legal barriers. Increasing access to cannabis products has helped reduce the risk of adverse drug or mixed drug-drug reactions in states with legal cannabis which can be identified in the Medicare Part D reductions of prescriptions in legal states.

My background includes formal training in college and at a government hospital in patient engagement and education while assisting health investigators with regulatory and research processes and providing technical assistance in order to complete my degree in human services.

I strongly encourage the FDA to actively engage in the process to reschedule cannabis and mushrooms along with other plants or compounds being identified as safer alternatives to opioids, alcohol and other drugs that have high drug-drug interactions. This will give local communities, states and tribes new options on how to better identify and deal with issues in these areas pertinent to them.

The USDA Agricultural Marketing Service recently held the 2018 Farm Bill Hemp Listening Session that 49 different people spoke at and I am fortunate to have been included as one of them; my testimony starts at 2:13:36, and can be listened to at the following link:

<https://zoom.us/recording/share/q1hdqA4gQo8JxMO4iF7Hrpe660Wbs46-8RYC4r7hp0CwlumekTziMw>

I enjoy studying the variance of law and the ways different laws are created, structured, interpreted and applied. I look forward to the changing methodologies in research, medicine and new initiatives being developed. We can focus making access safe not only affordable for everyone. I am open to providing a presentation if that's an option. Thank you once again for the opportunity to submit testimony and for your consideration.



To: US Food and Drug Administration (FDA)

From: @dreamgbutterfly botanicals

Center for Drug Evaluation and Research (CDER SBIA)

Re: Fiscal Year (FY) 2019 Generic Drug Regulatory Science Initiatives Public Workshop

Date: March 25, 2019

My name is Cheryl Bowie with @dreamgbutterfly botanicals. I'm part Inupiaq Eskimo and hopefully with the Stigler Act Amendment I'll be able to say I'm a descendant of the Choctaw and Chickasaw Nations. Thank you for the opportunity to speak today.

I've been working on a project studying the impacts of cannabis on our communities since a fellowship my former employer and healthcare provider nominated me for. I believe the FDA can do a lot to increase stakeholder input and engagement by starting to participate in current regulatory initiatives across the country along with other government agencies.

Identifying and increasing collaboration and access for all people to participate in new drug initiatives and justice reforms that are being fostered locally such as the hemp and recreational and medical cannabis programs are a healthy breeding ground for new ideas, talent and an improved understanding of science, health and medicine across the board.

These local and state initiatives are stimulating interest in these areas and other forms of advanced or precision agriculture and medicine. They are increasing safety in different ways for patients and community members in addition to helping people impacted by the drug war while providing a legal platform for people to learn about and openly engage in drug development and educational activities that are largely out of reach for the general public. Including all community members is critical to the success or failure of these programs and dispensaries seem to operate as a gap coverage plan for people who need assistance to obtain access due to health, insurance, financial and other legal barriers.

I cannot express what a prime opportunity it is to provide health education and an increased understanding of chemistry, biology and medicine while stimulating the economy and increasing interest in STEM.



My background includes formal training in college and at a local hospital on patient engagement and education while assisting health investigators with their regulatory and research processes while providing technical assistance in order to complete my degree in human services.

I strongly encourage the FDA actively engage in the process to reschedule cannabis and mushrooms along with other plant compounds that are being identified as great alternatives to opioids, alcohol and other drugs that have high drug-drug interactions and are being identified as having better drug safety profiles than that of current drug options. This will give local communities, states and tribes new options on how to better identify and deal with issues in these areas pertinent to them. Identifying financial, legal and regulatory barriers that increase cost, create stove pipes or limit access is something the new initiatives such as the hemp and cannabis programs across the country are already doing and are really a natural fit for industry and patient engagement and education.

The USDA Agricultural Marketing Service recently held the 2018 Farm Bill Hemp Listening Session that 49 different people spoke in and it can be listened to at the following link: <https://zoom.us/recording/share/q1hdqA4gQo8JxMO4iF7Hrpe660Wbs46-8RYC4r7hp0CwlumekTziMw>

I personally enjoy studying the variance of law and the ways different laws are created, structured, applied and interpreted; which makes this almost like nirvana for me and I look forward to the changing methodologies in research, medicine and other landscapes such as adult use that increase access and understanding while improving safety, quality, and cost all the way around improving the quality of life and access for all people.

Cheryl Bowie  
@dreamgbutterfly botanicals  
9079036513  
cherylbwab@gmail.com



To: USDA Agricultural Marketing Service #AMS-SC-19-0061.

From: @dreambutterfly botanicals

Re: Fruit and Vegetable Advisory Committee

Date: August 14, 2019

My name is Cheryl Bowie with @dreambutterfly botanicals. I'm part Inupiaq Eskimo from northwest Alaska, thank you for the opportunity to participate however remotely.

I've been working on a project studying the impacts of cannabis on our communities since a fellowship my former employer and healthcare provider nominated me for. I will keep my comments brief but wanted the opportunity to introduce myself and just make mention of the many different state level efforts happening in relation to agriculture, both urban and rural.

As you may know Alaska is a very rural area that has limited access to fresh fruits and vegetables; if you combine this with limited transportation, the need (not only the demand) for fresh agriculture products comes at a premium cost to people in rural areas of our state, greatly impacting their ability to provide locally sustainable produce and access to healthy foods that can improve our diet and health. My first memorable experience with fruit as a child was watching my aunt rehydrate (boil) dried fruit to make pie. This is not a story a lot of people know but it is a very relevant to many lifestyles bound to this practice due to Alaska's remoteness.

I'm currently working on a project studying the impact of cannabis on our communities and cannot help but notice the similar infrastructure needs and requirements. This type of infrastructure is largely in need in our state as I am sure other industries are looking at some of the new urban agriculture designs to incorporate into health, education and commerce.

Rural areas of Alaska are currently experiencing hardships related to transportation, high unemployment rates and the increasing cost of living related to delivering services such as health, education and commerce activities in rural areas and an even greater need to create sustainable environments as things change around them.

I think that utilizing some of the agricultural programs to mitigate some of the health and economic hardships being experienced by some of our most needy people and places is a great



idea and we could incorporate some of the new indoor agriculture designs to meet standards set by other federal agencies to meet upgrade requirements for energy, education and information technology and telecommunications.

Identifying key stakeholders in agriculture to develop new partnerships and identify common goals or at least common infrastructure needs to meet desirable outcomes is critical to having successful outcomes especially in rural areas.

AMS works with many stakeholders that either have access to or share similar infrastructure and security needs. These can provide educational, employment and access to infrastructure that can give people access to current commerce platforms to reduce unemployment in their areas and help create financially and economically competitive platforms regardless of location.

Alaska is the unsung hero of indoor agriculture due to our climate and the military's need to provide food here in the early 1900's. Alaska has a rich history of both indoor and outdoor agriculture in an adverse environment of which the world has drawn on much experience.

Alaska is also an area being spotlighted as a climate change example due to the highly regulated and least developed area I believe in the country. The cost loss of different climate change models however accurate or inclusive often fail to identify ways to help local people create infrastructure models that increase health and safety for them and their families while preserving what they identify as important culturally or within their environment.

These urban agriculture designs used for fresh fruit, produce, biotechnology, drug development and so forth offer relative ease of deployment with some designs that are achievable for people in rural areas and would help mitigate economic hardships in these areas while helping utility, communications, telehealth and other providers identify new opportunities to increase access in rural areas.

I just wanted to take a minute to introduce myself and let you know people around the country are looking at all of these systems as drug regulation and cannabis or hemp are discussed. It's a wonderful time to identify different synergies to accomplish shared goals. I look forward to watching things unfold through these efforts.



United States  
Department of  
Agriculture

Office of the  
General  
Counsel

Washington,  
D.C.  
20250-1400

  
STEPHEN ALEXANDER VADEN  
GENERAL COUNSEL

May 28, 2019

MEMORANDUM

SUBJECT: EXECUTIVE SUMMARY OF NEW HEMP AUTHORITIES

On December 20, 2018, President Trump signed into law the Agriculture Improvement Act of 2018, Pub. L. 115-334 (2018 Farm Bill). The 2018 Farm Bill legalized hemp production for all purposes within the parameters laid out in the statute.

The Office of the General Counsel (OGC) has issued the attached legal opinion to address questions regarding several of the hemp-related provisions of the 2018 Farm Bill, including: a phase-out of the industrial hemp pilot authority in the Agricultural Act of 2014 (2014 Farm Bill) (**Section 7605**); an amendment to the Agricultural Marketing Act of 1946 to allow States and Indian tribes to regulate hemp production or follow a Department of Agriculture (USDA) plan regulating hemp production (**Section 10113**); a provision ensuring the free flow of hemp in interstate commerce (**Section 10114**); and the removal of hemp from the Controlled Substances Act (**Section 12619**).

The key conclusions of the OGC legal opinion are the following:

1. As of the enactment of the 2018 Farm Bill on December 20, 2018, hemp has been removed from schedule I of the Controlled Substances Act and is no longer a controlled substance.
2. After USDA publishes regulations implementing the new hemp production provisions of the 2018 Farm Bill contained in the Agricultural Marketing Act of 1946, States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under a State or Tribal plan or under a license issued under the USDA plan.
3. States and Indian tribes also may not prohibit the interstate transportation or shipment of hemp lawfully produced under the 2014 Farm Bill.
4. A person with a State or Federal felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on producing hemp under the Agricultural Marketing Act of 1946. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill **before December 20, 2018**, and whose conviction also occurred before that date.

MEMORANDUM

May 28, 2019

Page 2

With the enactment of the 2018 Farm Bill, hemp may be grown only (1) with a valid USDA-issued license, (2) under a USDA-approved State or Tribal plan, or (3) under the 2014 Farm Bill industrial hemp pilot authority. That pilot authority will expire one year after USDA establishes a plan for issuing USDA licenses under the provisions of the 2018 Farm Bill.

It is important for the public to recognize that the 2018 Farm Bill preserves the authority of States and Indian tribes to enact and enforce laws regulating the **production** of hemp that are more stringent than Federal law. Thus, while a State or an Indian tribe cannot block the shipment of hemp through that State or Tribal territory, it may continue to enforce State or Tribal laws prohibiting the growing of hemp in that State or Tribal territory.

It is also important to emphasize that the 2018 Farm Bill does not affect or modify the authority of the Secretary of Health and Human Services or Commissioner of Food and Drugs to regulate hemp under applicable U.S. Food and Drug Administration (FDA) laws.

USDA expects to issue regulations implementing the new hemp production authorities in 2019.

Attachment



United States  
Department of  
Agriculture

Office of the  
General  
Counsel

Washington,  
D.C.  
20250-1400

  
STEPHEN ALEXANDER VADEN  
GENERAL COUNSEL

May 28, 2019

MEMORANDUM FOR SONNY PERDUE  
SECRETARY OF AGRICULTURE

SUBJECT: LEGAL OPINION ON CERTAIN PROVISIONS OF THE  
AGRICULTURE IMPROVEMENT ACT OF 2018 RELATING TO  
HEMP

This memorandum provides my legal opinion on certain provisions of the Agriculture Improvement Act of 2018 ("2018 Farm Bill"), Pub. L. No. 115-334, relating to hemp.

As explained below, this memorandum concludes the following:

1. As of the enactment of the 2018 Farm Bill on December 20, 2018, hemp has been removed from schedule I of the Controlled Substances Act ("CSA") and is no longer a controlled substance. Hemp is defined under the 2018 Farm Bill to include any cannabis plant, or derivative thereof, that contains not more than 0.3 percent delta-9 tetrahydrocannabinol ("THC") on a dry-weight basis.
2. After the Department of Agriculture ("USDA" or "Department") publishes regulations implementing the hemp production provisions of the 2018 Farm Bill contained in subtitle G of the Agricultural Marketing Act of 1946 ("AMA"), States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under a State or Tribal plan or under a license issued under the Departmental plan.
3. States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under the Agricultural Act of 2014 ("2014 Farm Bill").
4. A person with a State or Federal felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on producing hemp under subtitle G of the AMA. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.

This memorandum also emphasizes two important aspects of the 2018 Farm Bill provisions relating to hemp. First, the 2018 Farm Bill preserves the authority of States and Indian tribes to enact and enforce laws regulating the **production** (but not the interstate transportation or shipment) of hemp that are more stringent than Federal law. For example, a State law prohibiting the growth or cultivation of hemp may continue to be enforced by that State. Second, the 2018 Farm Bill does not affect or modify the authority of the Secretary of Health and Human Services or Commissioner of Food and Drugs under applicable U.S. Food and Drug Administration laws.

## I. BACKGROUND

The 2018 Farm Bill, Pub. L. No. 115-334, enacted on December 20, 2018, includes several provisions relating to hemp.<sup>1</sup> This legal opinion focuses on sections 7605, 10113, 10114, and 12619, summarized below.

- **Section 7605** amends section 7606 of the 2014 Farm Bill (7 U.S.C. § 5940), which authorizes institutions of higher education or State departments of agriculture to grow or cultivate industrial hemp under certain conditions — namely, if the hemp is grown or cultivated for research purposes in a State that allows hemp production. Among other things, section 7605 amends 2014 Farm Bill § 7606 to require the Secretary of Agriculture (“Secretary”) to conduct a study of these hemp research programs and submit a report to Congress. Section 7605 also repeals 2014 Farm Bill § 7606, effective one year after the date on which the Secretary establishes a plan under section 297C of the AMA.<sup>2</sup>
- **Section 10113** amends the AMA by adding a new subtitle G (sections 297A through 297E) (7 U.S.C. §§ 1639o – 1639s) relating to hemp production. Under this new authority, a State or Indian tribe that wishes to have primary regulatory authority over the production of hemp in that State or territory of that Indian tribe may submit, for the approval of the Secretary, a plan concerning the monitoring and regulation of such hemp production. *See* AMA § 297B. For States or Indian tribes that do not have approved plans, the Secretary is directed to establish a Departmental plan concerning the monitoring and regulation of hemp production in those areas. *See* AMA § 297C. The

---

<sup>1</sup> The 2014 Farm Bill defines “**industrial hemp**” as “the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. § 5940(a)(2). The 2018 Farm Bill added a new, slightly different definition of “**hemp**” in section 297A of the AMA, defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. § 1639o(1). Both definitions require a THC concentration of not more than 0.3 percent for a *Cannabis sativa* L. plant to be considered hemp versus marijuana. For purposes of this legal opinion, I use the terms “**hemp**” and “**industrial hemp**” interchangeably.

<sup>2</sup> The Conference Report accompanying the 2018 Farm Bill explains the effect of the repeal as follows: “The provision also repeals the hemp research pilot programs one year after the Secretary publishes a final regulation allowing for full-scale commercial production of hemp as provided in section 297C of the [AMA].” H.R. REP. NO. 115-1072, at 699 (2018).

Secretary is also required to promulgate regulations and guidelines implementing subtitle G. *See* AMA § 297D. The new authority also provides definitions (*see* AMA § 297A) and an authorization of appropriations (*see* AMA § 297E).

- **Section 10114** (7 U.S.C. § 1639o note) is a freestanding provision stating that nothing in title X of the 2018 Farm Bill prohibits the interstate commerce of hemp or hemp products. Section 10114 also provides that States and Indian tribes shall not prohibit the interstate transportation or shipment of hemp or hemp products produced in accordance with subtitle G through the State or territory of the Indian tribe.
- **Section 12619** amends the CSA to exclude hemp from the CSA definition of marijuana. Section 12619 also amends the CSA to exclude THC in hemp from Schedule I.<sup>3</sup>

In passing the 2018 Farm Bill, Congress legalized hemp production for all purposes within the parameters of the statute but reserved to the States and Indian tribes authority to enact and enforce more stringent laws regulating production of hemp.

## II. ANALYSIS

### A. As of the Enactment of the 2018 Farm Bill on December 20, 2018, Hemp Has Been Removed from Schedule I of the Controlled Substances Act and Is No Longer a Controlled Substance.

CSA § 102(6) defines “controlled substance” to mean “a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title. . . .” 21 U.S.C. § 802(6). Marijuana<sup>4</sup> is a controlled substance listed in schedule I of the CSA. *See* CSA § 202(c)(10), schedule I (21 U.S.C. § 812(c), Schedule I (c)(10)); 21 C.F.R. § 1308.11(d)(23).

The 2018 Farm Bill amended the CSA in two ways.

- First, 2018 Farm Bill § 12619(a) amended the CSA definition of marijuana to exclude hemp. Before enactment of the 2018 Farm Bill, CSA § 102(16) (21 U.S.C. § 802(16)) defined marijuana as follows:

(16) The term ‘marihuana’ means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake,

<sup>3</sup> For additional background on hemp production prior to enactment of the 2018 Farm Bill, *see* Congressional Research Service, “Hemp as an Agricultural Commodity” (RL32725) (updated July 9, 2018), *available at* <https://crsreports.congress.gov/product/pdf/RL/RL32725>.

<sup>4</sup> This opinion uses the common spelling of “marijuana” except when quoting the CSA, which uses the “marihuana” spelling.

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 4

or the sterilized seed of such plant which is incapable of germination.

As amended by the 2018 Farm Bill, the CSA definition of marijuana now reads:

(A) Subject to subparagraph (B), the term ‘marihuana’ means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

(B) The term ‘marihuana’ does not include—

(i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946; or

(ii) the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

- Second, 2018 Farm Bill § 12619(b) amended the CSA to exclude THC in hemp from the term “tetrahydrocannabinols” in schedule I. As amended by the 2018 Farm Bill, CSA § 202(c)(17), schedule I (21 U.S.C. § 812(c)(17), schedule I) now reads:

Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 297A of the Agricultural Marketing Act of 1946).

By amending the definition of marijuana to exclude hemp as defined in AMA § 297A, Congress has removed hemp from schedule I and removed it entirely from the CSA. In other words, hemp is no longer a controlled substance. Also, by amending schedule I to exclude THC in hemp, Congress has likewise removed THC in hemp from the CSA.

It is important to note that this decontrolling of hemp (and THC in hemp) is self-executing. Although the CSA implementing regulations must be updated to reflect the 2018 Farm Bill amendments to the CSA, neither the publication of those updated regulations nor any other action is necessary to execute this removal.

I address here two principal objections to the view that the decontrolling of hemp is self-executing. The first objection is that, because regulations have not been published under CSA § 201, the legislative changes to schedule I regarding hemp are not effective. This objection is not valid.

The typical process for amending the CSA schedules is through rulemaking. Under CSA § 201(a), the Attorney General “may by rule” add to, remove from, or transfer between the schedules, any drugs or other substances upon the making of certain findings. 21 U.S.C. § 811(a). However, the schedules also can be amended directly by Congress through changes to the statute; and Congress has done so several times.<sup>5</sup>

---

<sup>5</sup> See, e.g., Pub. L. 112-144, § 1152 (amending schedule I to add cannabimimetic agents); Pub. L. 101-647, § 1902(a) (amending schedule III to add anabolic steroids).

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 5

The second objection is that, because the legislative changes to schedule I regarding hemp are not yet reflected in 21 C.F.R. § 1308.11, the removal is not yet effective. This objection also is not valid.

It is axiomatic that statutes trump regulations. *See Nat'l Family Planning & Reprod. Health Ass'n, Inc. v. Gonzales*, 468 F.3d 826, 829 (D.C. Cir. 2006) (“[A] valid statute always prevails over a conflicting regulation[.]”). Congress established the five CSA schedules in statute, providing that “[s]uch schedules shall initially consist of the substances listed in this section.” 21 U.S.C. § 812(a).<sup>6</sup> Congress further provided that “[t]he schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.” 21 U.S.C. § 812(a). The requirement to update and republish the schedules, however, is not a prerequisite to the effectiveness of the schedules “established by [the statute].” *Id.* In other words, where Congress itself amends the schedules to add or remove a controlled substance, the addition or removal of that controlled substance is effective immediately on enactment (absent some other effective date in the legislation); its addition to or removal from a schedule is not dependent on rulemaking.<sup>7</sup>

To illustrate, Congress amended the CSA in 2012 to add “cannabimimetic agents” to schedule I. That amendment was enacted as part of the Synthetic Drug Abuse Prevention Act of 2012 (Pub. L. 112-144, title XI, subtitle D), which was signed into law on July 9, 2012. Almost six months later, the Drug Enforcement Administration (“DEA”) published a final rule establishing the drug codes for the cannabimimetic agents added to schedule I by Congress and making other conforming changes to schedule I as codified in 21 C.F.R. § 1308.11. *See* 78 Fed. Reg. 664 (Jan. 4, 2013). In explaining why notice-and-comment rulemaking was unnecessary, DEA noted that “the placement of these 26 substances in Schedule I **has already been in effect since July 9, 2012.**” *Id.* at 665 (emphasis added). In other words, the legislative changes to schedule I were effective immediately upon enactment. The reflection of those changes in 21 C.F.R. § 1308.11, although required by 21 U.S.C. § 812(a), was not necessary for the execution of those changes to schedule I.

Accordingly, enactment of the 2018 Farm Bill accomplished the removal of hemp (and THC in hemp<sup>8</sup>) from the CSA. Conforming amendments to 21 C.F.R. § 1308.11, while required as part

---

<sup>6</sup> “Marihuana” and “Tetrahydrocannabinols” were both included in the initial schedule I established by Congress in 1970.

<sup>7</sup> *Cf. United States v. Huerta*, 547 F.2d 545, 547 (10th Cir. 1977) (“[F]ailure to publish the ‘updated’ schedules as required by Section 812(a) had no effect upon the validity of those substances initially listed in the five schedules.”); *United States v. Monroe*, 408 F. Supp. 270, 274 (N.D. Cal. 1976) (“Thus, while section 812(a) clearly orders the controlled substance schedules to be republished, it is clear that Congress did not intend republication to serve as a reissuance of the schedules, which if done improperly would cause those schedules to lapse and expire. . . . [T]he requirement that the schedules, once ‘updated,’ be ‘republished’ was solely for the purpose of establishing one list which would reflect all substances which were currently subject to the Act’s provisions. . . .”).

<sup>8</sup> Schedule I, as published in 21 C.F.R. § 1308.11, includes a definition of “tetrahydrocannabinols” in paragraph (d)(31) that does not appear in the CSA. Notwithstanding the presence of that definition in the current regulations, I

of DEA's continuing obligation to publish updated schedules, are not necessary to execute the 2018 Farm Bill changes to schedule I.<sup>9</sup>

**B. After the Department of Agriculture Publishes Regulations Implementing the Hemp Production Provisions of the 2018 Farm Bill Contained in Subtitle G of the Agricultural Marketing Act of 1946, States and Indian Tribes May Not Prohibit the Interstate Transportation or Shipment of Hemp Lawfully Produced Under a State or Tribal Plan or Under a License Issued Under the Departmental Plan.**

AMA § 297D(a)(1)(A) directs the Secretary to issue regulations and guidelines "as expeditiously as possible" to implement subtitle G of the AMA. 7 U.S.C. § 1639r(a)(1)(A). These regulations will address the approval of State and Tribal plans under AMA § 297B and the issuance of licenses under the Departmental plan under AMA § 297C. As explained below, once these regulations are published, States and Indian tribes may not prohibit the transportation or shipment of hemp (including hemp products) produced in accordance with an approved State or Tribal plan or produced under a license issued under the Departmental plan.

Transportation of hemp is addressed in 2018 Farm Bill § 10114.<sup>10</sup> Subsection (a) provides:

(a) RULE OF CONSTRUCTION.—Nothing in this title or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 (as added by section 10113)) or hemp products.

7 U.S.C. § 1639o note. This provision states that nothing in title X of the 2018 Farm Bill

---

am of the opinion that THC in hemp is excluded from THC as a schedule I controlled substance under the CSA by virtue of the 2018 Farm Bill amendments.

<sup>9</sup> Schedule I, as reflected in 21 C.F.R. § 1308.11, includes a separate listing of "marihuana extract" in paragraph (d)(58). Marijuana extract is not reflected in schedule I in the statute because it was added after 1970 by regulation under CSA § 201. The term "marihuana extract" is defined in regulation as "an extract containing one or more cannabinoids that has been derived from any plant of the genus *Cannabis*, other than the separated resin (whether crude or purified) obtained from the plant." The 2018 Farm Bill amended the definition of "marihuana" to exclude hemp, but because the regulatory definition of "marihuana extract" in schedule I does not use the words "marihuana" or "tetrahydrocannabinols" to define the term, a question arises whether **hemp extract** is still considered to be listed as a schedule I controlled substance. While the issue is not further addressed in this opinion, I think that the revised statutory definition of "marihuana" has effectively removed hemp extract from schedule I, and that reflecting such in 21 C.F.R. § 1308.11(d)(58) would be merely a conforming amendment.

<sup>10</sup> Hemp transportation is also addressed in annual appropriations acts, which restrict Federal appropriated funds from being used to prohibit the transportation of hemp. However, those provisions are limited in scope because they address only hemp produced under the 2014 Farm Bill authority, and they address only Federal government actions. That is, while the provisions prohibit Federal actors from blocking the transportation of so-called "2014 Farm Bill hemp," they do not restrict State action in that regard. See Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2019, Pub. L. 116-6, div. B, § 728 (prohibiting funds made available by that Act or any other Act from being used in contravention of 2014 Farm Bill § 7606 or "to prohibit the transportation, processing, sale, or use of industrial hemp, or seeds of such plant, that is grown or cultivated in accordance with [2014 Farm Bill § 7606], within or outside the State in which the industrial hemp is grown or cultivated"). See also Commerce, Justice, Science, and Related Agencies Appropriations Act, 2019, Pub. L. 116-6, div. C, § 536 ("None of the funds made available by this Act may be used in contravention of [2014 Farm Bill § 7606] by the Department of Justice or the Drug Enforcement Administration.").

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 7

prohibits the interstate commerce of hemp. However, this provision, standing alone, does not have the effect of sanctioning the transportation of hemp in States or Tribal areas where such transportation is prohibited under State or Tribal law.

Subsection (b), however, specifically prohibits States and Indian tribes from prohibiting the transportation of hemp through that State or Tribal territory. Subsection (b) provides:

(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.

7 U.S.C. § 1639o note. In effect, this provision preempts State law to the extent such State law prohibits the interstate transportation or shipment of hemp that has been produced in accordance with subtitle G of the AMA.

As a matter of constitutional law, “[t]he Supremacy Clause provides a clear rule that federal law ‘shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any [S]tate to the Contrary notwithstanding. . . .’ Under this principle, Congress has the power to preempt [S]tate law.” *Arizona v. United States*, 567 U.S. 387, 398-99 (2012) (citing U.S. Const. art. VI, cl. 2). “Under the doctrine of federal preemption, a federal law supersedes or supplants an inconsistent [S]tate law or regulation.” *United States v. Zadeh*, 820 F.3d 746, 751 (5th Cir. 2016).

Federal courts generally recognize three categories of preemption: (1) express preemption (where Congress “withdraw[s]” powers from the State through an “express preemption provision”);<sup>11</sup> (2) field preemption (where States are “precluded from regulating conduct in a field that Congress, acting within its proper authority, has determined must be regulated by its exclusive governance”);<sup>12</sup> and conflict preemption (where State laws are preempted when they conflict with Federal law, which includes situations “where ‘compliance with both federal and [S]tate regulations is a physical impossibility’” or situations “where the challenged [S]tate law ‘stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress’”).<sup>13</sup> *Arizona*, 567 U.S. at 399-400 (citations omitted); *see also Zadeh*, 820 F.3d at 751.

<sup>11</sup> *See, e.g.*, 7 U.S.C. § 1639i(b) (“(b) Federal preemption.—No State or a political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling of whether a food (including food served in a restaurant or similar establishment) or seed is genetically engineered (which shall include such other similar terms as determined by the Secretary of Agriculture) or was developed or produced using genetic engineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed or produced using genetic engineering.”).

<sup>12</sup> *See, e.g., Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm’n*, 461 U.S. 190, 212 (“[T]he federal government has occupied the entire field of nuclear safety concerns, except the limited powers expressly ceded to the [S]tates.”).

<sup>13</sup> *See, e.g.*, 21 U.S.C. § 903 (“No provision of this subchapter shall be construed as indicating an intent on the part of Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is

Section 10114(b) of the 2018 Farm Bill satisfies the definition of conflict preemption because a State law prohibiting the interstate transportation or shipment of hemp or hemp products that have been produced in accordance with subtitle G of the AMA would be in direct conflict with section 10114(b), which provides that no State may prohibit such activity.<sup>14</sup> Therefore, any such State law has been preempted by Congress. The same result applies to Indian tribes.<sup>15</sup>

In sum, once the implementing regulations are published, States and Indian tribes may not prohibit the shipment of hemp lawfully produced under an approved State or Tribal plan or under a license issued under the Departmental plan.

**C. States and Indian Tribes May Not Prohibit the Interstate Transportation or Shipment of Hemp Lawfully Produced Under the Agricultural Act of 2014.**

Because the 2018 Farm Bill does not immediately repeal the hemp pilot authority in 2014 Farm Bill § 7606 — and because the publication of regulations implementing the hemp production provisions of the 2018 Farm Bill will likely not occur until later in 2019 — the question arises whether States and Indian tribes are prohibited from blocking the interstate transportation or shipment of hemp (including hemp products) lawfully produced under the 2014 Farm Bill. The answer depends on the meaning of the phrase “in accordance with subtitle G of the Agricultural Marketing Act of 1946” in 2018 Farm Bill § 10114(b) (7 U.S.C. § 1639o note). Only hemp produced in accordance with subtitle G is covered by the preemption provision discussed above. As explained below, it is my opinion that the answer to this question is yes, by operation of AMA § 297B(f).

AMA § 297B(f) states the legal effect of the provisions authorizing States and Indian tribes to develop plans for exercising primary regulatory authority over the production of hemp within that State or territory of the Indian tribe. Specifically, section 297B(f) provides:

(f) EFFECT.—Nothing in this section prohibits the production of hemp in a State or the territory of an Indian tribe—

(1) for which a State or Tribal plan is not approved under this section, if the production of hemp is in accordance with section 297C or other Federal laws (including regulations); and

(2) if the production of hemp is not otherwise prohibited by the State or Indian tribe.

---

a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.”).

<sup>14</sup> Alternatively, section 10114(b) might be considered an express preemption provision because the statute expressly withdraws the power of a State to prohibit the transportation or shipment of hemp or hemp products through the State.

<sup>15</sup> AMA § 297B(a)(3) contains an anti-preemption provision stating that nothing in § 297B(a) “preempts or limits any law of a State or Indian tribe” that “regulates the production of hemp” and “is more stringent than [subtitle G].” 7 U.S.C. § 1639p(a)(3). However, that anti-preemption provision is limited to the production of hemp — not the transportation or shipment of hemp — and thus does not conflict with 2018 Farm Bill § 10114(b).

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 9

7 U.S.C. § 1639p(f) (emphasis added).

This provision addresses the production of hemp in a State or Tribal territory for which the State or tribe does not have an approved plan under AMA § 297B. This provision acknowledges that, in such a scenario, the production of hemp in that State or Tribal territory is still permissible if it is produced **either** in accordance with the Departmental plan under AMA § 297C **or** in accordance with other Federal laws, and the State or tribe does not otherwise prohibit its production.

The plain language of subtitle G of the AMA, as added by the 2018 Farm Bill, thus clearly contemplates a scenario in which hemp is neither produced under an approved 297B plan nor under a license issued under the Department's 297C plan, but is still legally produced under "other Federal laws." It is my opinion that "other Federal laws" encompasses 2014 Farm Bill § 7606.<sup>16</sup>

To my knowledge, before enactment of 2014 Farm Bill § 7606, the CSA was the only Federal law that authorized the production of hemp. Indeed, the production of hemp — as the "manufacture" of a schedule I controlled substance — was generally prohibited under the CSA except to the extent authorized under a registration or waiver under the CSA. *See* 21 U.S.C. §§ 802(15), 802(22), 822, and 823; 21 C.F.R. part 1301. Given (1) the removal of hemp as a controlled substance under the CSA, (2) the delayed repeal of the 2014 Farm Bill § 7606 authority, and (3) the enactment of the new hemp production authorities in subtitle G of the AMA, it is my opinion that "other Federal laws" refers to the provisions of 2014 Farm Bill § 7606, which are still in effect. Such an interpretation gives immediate effect to the phrase "other Federal laws." It is a "cardinal principle of interpretation that courts must give effect, if possible, to every clause and word of a statute." *See, e.g., Loughrin v. United States*, 573 U.S. 351, 358 (2014) (internal quotations and citations omitted).

Therefore, reading AMA § 297B(f) in harmony with 2018 Farm Bill § 10114(b), if the hemp is legally produced in accordance with 2014 Farm Bill § 7606 ("other Federal law"), then, by virtue of AMA § 297B(f), its production is not prohibited. Such hemp would have been produced "in accordance with subtitle G," which specifically addresses just such a scenario, as AMA § 297B(f) is part of subtitle G. Accordingly, under 2018 Farm Bill § 10114(b), a State or Indian

---

<sup>16</sup> That Congress envisioned such a scenario is apparent given the language in 2018 Farm Bill § 7605(b) delaying the repeal of 2014 Farm Bill § 7606 until 12 months after the Secretary establishes the 297C plan. Accordingly, this interpretation is not precluded by AMA § 297C(c)(1), which provides: "[i]n the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 297B, it shall be unlawful to produce hemp in that State or the territory of that Indian tribe without a license issued by the Secretary under subsection (b)." Given the reference to "or other Federal laws" in AMA § 297B(f)(1) — and the fact that 2014 Farm Bill § 7606 is still in effect — it would be an absurd reading of AMA § 297C(c)(1) to conclude that hemp produced in accordance with Federal law (2014 Farm Bill § 7606) is, at the same time, unlawful without a separate license issued by the Secretary under the 297C plan. As courts have long recognized, statutory interpretations that "produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available." *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 575 (1982).

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 10

tribe may not prohibit the transportation or shipment of so-called “2014 Farm Bill hemp” through that State or Tribal territory.<sup>17</sup>

Recent Developments

I acknowledge that this conclusion is in tension with a recent decision in a case in the District of Idaho, but it also is consistent with a recent decision in a case in the Southern District of West Virginia. Neither court addressed the “other Federal laws” language in AMA § 297B(f)(1), which I find conclusive.

In *Big Sky Scientific LLC v. Idaho State Police*, Case No. 19-CV-00040 (D. Idaho), a magistrate judge found that a shipment of Oregon hemp bound for Colorado and interdicted by Idaho State Police could not have been produced “in accordance with subtitle G” because the State of origin does not yet have an approved plan under AMA § 297B and the Secretary has not yet established a plan under AMA § 297C.<sup>18</sup> The magistrate acknowledged Oregon law authorizing the cultivation of hemp, noting the plaintiff’s assertion that the hemp was produced by a grower licensed by the Oregon Department of Agriculture (and, thus, presumably in compliance with 2014 Farm Bill § 7606 requirements).<sup>19</sup> However, in denying the plaintiff’s motion for a preliminary injunction, the magistrate concluded that, in enacting the 2018 Farm Bill, Congress intended to “create a regulatory framework around the production and interstate transportation of hemp for purposes of federal law, and that framework is to be contained in the federal (or compliant [S]tate or [T]ribal) plan for production of hemp found in the 2018 Farm Bill.”<sup>20</sup> Although the 2018 Farm Bill allows hemp to be transported across State lines, the magistrate found those interstate commerce protections apply only to hemp produced under regulations promulgated under the authority of the 2018 Farm Bill.<sup>21</sup> Therefore, because those regulations do not yet exist, the interdicted hemp is subject to Idaho law prohibiting its transportation.

USDA is not a party in the *Big Sky* case, and this office does not concur with the reasoning of the magistrate regarding the shipment of hemp lawfully produced under the 2014 Farm Bill. In

---

<sup>17</sup> This conclusion seems to be supported in the legislative history as well. In explaining the effect of the preemption provision, the Conference Report states: “While [S]tates and Indian tribes may limit the production and sale of hemp and hemp products within their borders, the Managers, in Sec. 10112 [sic], agreed to not allow [S]tates and Indian tribes to limit the transportation or shipment of hemp or hemp products through the [S]tate or Indian territory.” H.R. REP. NO. 115-1072, at 738 (2018). Notably, the Managers referred to hemp generally, not merely hemp produced under a plan developed under subtitle G of the AMA.

<sup>18</sup> See *Big Sky*, ECF Doc. #32, Memorandum Decision and Order Re: Plaintiff’s Motion for Preliminary Injunction; see also ECF Doc. #6, Memorandum Decision and Order Re: Plaintiff’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction and Plaintiff’s Motion to File Overlength Brief (*available at* 2019 WL 438336 (Feb. 2, 2019)).

<sup>19</sup> *Big Sky*, ECF Doc. #32, at 5, 7-8.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.* at 19-26.

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 11

interpreting the statutory language, the magistrate correctly noted the well-recognized principle of statutory construction that statutes should not be interpreted “in a manner that renders other provisions of the same statute inconsistent, meaningless, or superfluous.”<sup>22</sup> However, seemingly ignoring that guiding principle of interpretation, the magistrate did not address the effect of the “other Federal laws” language in AMA § 297B(f) or attempt to give that language any meaning. The Idaho court failed to read the statute as a whole and did not consider the “other Federal laws” clause that I find conclusive. Given the preliminary nature of the magistrate’s ruling, I find his opinion denying a preliminary injunction unpersuasive.<sup>23</sup>

Conversely, the interpretation of 2018 Farm Bill § 10114 advanced by this legal opinion is consistent with a decision issued in the Southern District of West Virginia. In *United States v. Mallory*, Case No. 18-CV-1289 (S.D. W. Va.), the Department of Justice filed a civil action to seize hemp allegedly grown in violation of the CSA and also outside the scope of the 2014 Farm Bill. At issue in that case was hemp purportedly grown by a producer licensed by the State of West Virginia under a 2014 Farm Bill § 7606 pilot program, where the hemp seeds were shipped from a Kentucky supplier licensed by the Commonwealth of Kentucky under a 2014 Farm Bill § 7606 pilot program. The court relied on a combination of laws — the 2014 Farm Bill, the appropriations acts provisions,<sup>24</sup> and the 2018 Farm Bill — to dissolve a preliminary injunction against the defendant<sup>25</sup> and to dismiss entirely the government’s case.<sup>26</sup> In dissolving the preliminary injunction, the court permitted the defendants to transport the hemp product across State lines to Pennsylvania for processing and sale.<sup>27</sup>

Although the *Mallory* court did not have occasion to address any State attempts to block the transportation of hemp, the court did reference 2018 Farm Bill § 10114, noting that it “expressly allows hemp, its seeds, and hemp-derived products to be transported across State lines.”<sup>28</sup> The district judge’s opinion addressed hemp produced under 2014 Farm Bill § 7606 and not hemp produced under State, Tribal, or Departmental plans. The conclusion reached by the *Mallory* court is consistent with my interpretation that States cannot block the shipment of hemp, whether

---

<sup>22</sup> *Id.* at 21-22 (citing *Padash v. I.N.S.*, 258 F.3d 1161, 1170-71 (9th Cir. 2004)). The magistrate continued:

It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant. . . . It is our duty to give effect, if possible, to every clause and word of a statute.

*Id.* at 23 (internal quotations and citations omitted).

<sup>23</sup> Indeed, the magistrate’s ruling is under appeal. See *Big Sky Sci. LLC v. Bennetts*, Case No. 19-35138 (9th Cir.).

<sup>24</sup> See *supra* footnote 10.

<sup>25</sup> *Mallory*, ECF Doc. #60, Memorandum Opinion and Order, 2019 WL 252530 (S.D. W. Va. Jan. 17, 2019).

<sup>26</sup> *Mallory*, ECF Doc. #72, Memorandum Opinion and Order, 2019 WL 1061677 (S.D. W. Va. Mar. 6, 2019).

<sup>27</sup> *Mallory*, ECF Doc. #60, 2019 WL 252530, at \*3.

<sup>28</sup> *Mallory*, ECF Doc. #72, 2019 WL 1061677, at \*6.

that hemp is produced under the 2014 Farm Bill or under a State, Tribal, or Departmental plan under the 2018 Farm Bill. It is also a final judgment of the Southern District of West Virginia court, and not a preliminary ruling as with the District of Idaho magistrate's opinion.<sup>29</sup>

In matters of statutory interpretation, the text of the statute governs. One must read that text in its entirety and give every word meaning. The reference to "other Federal laws" must be given meaning, and that language clearly refers to the Federal law that currently authorizes the production of hemp — 2014 Farm Bill § 7606. Therefore, hemp produced under that pilot authority is hemp produced in accordance with subtitle G of the AMA. States and Indian tribes may not prohibit the transportation or shipment of such hemp through that State or Tribal territory.

**D. The 2018 Farm Bill Places Restrictions on the Production of Hemp by Certain Felons.**

The 2018 Farm Bill added a new provision addressing the ability of convicted felons to produce hemp. The 2014 Farm Bill is silent on the issue. AMA § 297B(e)(3)(B) (hereafter, "Felony provision"), as added by the 2018 Farm Bill, provides:

(B) FELONY.—

(i) IN GENERAL.—Except as provided in clause (ii), any person convicted of a felony relating to a controlled substance under State or Federal law before, on, or after the date of enactment of this subtitle shall be ineligible, during the 10-year period following the date of the conviction—

(I) to participate in the program established under this section or section 297C; and

(II) to produce hemp under any regulations or guidelines issued under section 297D(a).

(ii) EXCEPTION.—Clause (i) shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) before the date of enactment of this subtitle.

7 U.S.C. § 1639p(e)(3)(B) (emphasis added). The references to "the date of enactment of this subtitle" are to subtitle G of the AMA, as added by section 10113 of 2018 Farm Bill. Therefore, the "date of enactment of this subtitle" is the date of enactment of the 2018 Farm Bill — December 20, 2018.

In explaining the Felony provision, the Conference Report notes:

Any person convicted of a felony relating to a controlled substance shall be ineligible to participate under the [S]tate or [T]ribal plan for a 10-year period following the date of the conviction. However, this prohibition shall not apply to producers who have been lawfully participating in a [S]tate hemp pilot program as authorized by the Agricultural Act of 2014, prior to enactment of this subtitle. Subsequent felony convictions after the date of enactment of this subtitle will trigger a 10-year

<sup>29</sup> *Mallory*, ECF Doc. #72, 2019 WL 1061677, at \*9 (denying the United States' motion to amend and granting the defendants' motion to dismiss). *Big Sky*, ECF Doc. #32, at 28 (denying the plaintiff's motion for preliminary injunction and noting that the court will separately issue an order setting a scheduling conference to govern the case going forward).

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

May 28, 2019

Page 13

nonparticipation period regardless of whether the producer participated in the pilot program authorized in 2014.

H.R. REP. NO. 115-1072, at 737 (2018).

In sum, a person convicted of a State or Federal felony relating to a controlled substance — regardless of when that conviction occurred — is ineligible to produce hemp under subtitle G of the AMA for a period of 10 years following the date of the conviction. An exception exists in clause (ii) of the Felony provision that applies to a person who was lawfully producing hemp under the 2014 Farm Bill **before December 20, 2018**, and who had been convicted of a felony relating to a controlled substance before that date. States and Indian tribes now have a responsibility to determine whether a person wishing to produce hemp in that State or Tribal territory has any Federal or State felony convictions relating to controlled substances that would make that person ineligible to produce hemp.

### III. OTHER ISSUES

There are two additional important aspects of this issue that should be emphasized.

First, the 2018 Farm Bill preserves the authority of States and Indian tribes to enact and enforce laws regulating the production of hemp that are more stringent than Federal law. *See* AMA § 297B(a)(3) (7 U.S.C. § 1639p(a)(3)) (“Nothing in this subsection preempts or limits any law of a State or Indian tribe that . . . (i) regulates the production of hemp; and (ii) is more stringent than this subtitle.”). For example, a State may continue to prohibit the growth or cultivation of hemp in that State.<sup>30</sup> As discussed above, however, while a State or Indian tribe may prohibit the production of hemp, it may not prohibit the interstate shipment of hemp that has been produced in accordance with Federal law.

Second, the 2018 Farm Bill does not affect or modify the authority of the Secretary of Health and Human Services (“HHS Secretary”) or Commissioner of Food and Drugs (“FDA Commissioner”) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) and section 351 of the Public Health Service Act (42 U.S.C. § 262). *See* AMA § 297D(c) (7 U.S.C. § 1639r(c)). While AMA § 297D(b) provides that the Secretary of Agriculture shall have “sole authority” to issue Federal regulations and guidelines that relate to the production of hemp, this authority is subject to the authority of the HHS Secretary and FDA Commissioner to promulgate Federal regulations and guidelines under those FDA laws. 7 U.S.C. § 1639r(b).

---

<sup>30</sup> Certain states continue to prohibit the cultivation of hemp. *See* National Conference of State Legislatures, “State Industrial Hemp Statutes,” available at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx#state> (updated Feb. 1, 2019).

#### IV. CONCLUSION

I have analyzed the hemp provisions enacted as part of the 2018 Farm Bill and reach the following conclusions:

1. As of the enactment of the 2018 Farm Bill on December 20, 2018, hemp has been removed from schedule I of the CSA and is no longer a controlled substance.
2. After USDA publishes regulations implementing the hemp production provisions of the 2018 Farm Bill contained in subtitle G of the AMA, States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under a State or Tribal plan or under a license issued under the Departmental plan.
3. States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under the 2014 Farm Bill.
4. A person with a State or Federal felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on producing hemp under subtitle G of the AMA. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.

The 2018 Farm Bill preserves the authority of States and Indian tribes to enact and enforce laws regulating the production of hemp that are more stringent than Federal law. Additionally, the 2018 Farm Bill does not affect or modify the authority of the HHS Secretary or FDA Commissioner to regulate hemp under applicable FDA laws.

August 23, 2019

AMCO Board of Directors  
550 West 7th Avenue, Suite 1600  
Anchorage, AK 99501

AMCO BOARD MEETING SEPTEMBER 11-13, 2109

Dear AMCO Board.

This reaches you with concerns addressing AMCOs ability to enforce your Marijuana Cultivation and Limited Marijuana Cultivation license requirement for odor control. As of today, there are 34 (combined) operating licenses in Anchorage, and 78 operating licenses in the Mat-Su Borough. After the licenses waiting for approval the numbers will be– Anchorage with 42 active facilities and the Mat-Su Borough with 98. These numbers will only grow over time. Your enforcement department has only five employees which need to cover both Anchorage and the Mat-Su Borough– for all of four of your licenses and their many compliances. You currently can not keep up on complaints for odor control.

Marijuana Cultivation and Limited Marijuana Cultivation licenses' main compliance enforcement need is for odor control. Because these licenses operate 24 hours a day- odor violations can occur at anytime. Your office takes calls from 9am-12n and 1pm-4pm, Monday thru Friday. If called in during your 6 hours of operations– compliance officers take about an hour to reach the MSB license location (Willow and Talkeenta will take longer). A complaint reported at any other time becomes “after-the-fact” – where you do not qualify this as “enforceable” because you didn't smell it. MSB does not regulate Limited Marijuana Cultivation Facilities- so they can be located in a residential area, unlike Anchorage with its zoning restrictions. It is important you note this, because you will have more odor complaints from the MSB. Your tracking of this difference should hold true.

The need to have enforcement employees located in the Mat-Su Valley is in front of you. You currently can not fulfill the compliance requests with a staff of 5– as shared by a current staff employee. Also shared– a compliance officer has to smell marijuana upon their visit to write a violation. An on-call employee, that can handle complaints in real time, is something you need to consider. Remember you are only open for 6 hours Monday– Friday. Without this ability to meet a resident when a complaint is called in, you are wasting time and effort in following up if odor is not present.

The AMCO allows four odor compliance violations, within a three year period, before you rescind a license. This indicates to me that there is current technology available to keep odor contained. You currently have a license operating with complaints submitted for the months of June, July, and August. I sincerely hope this is not considered a typical situation. Both residents (that abut its' property) have had to close their windows, close their doors and not be outside due to the amount of stench that engulfs their personal property– occurring on numerous occasions. They put up with odor on their property for an entire month of May before they realized they could file a complaint. So, for four months this license holder has been operating and allowing odor off his property– if the residents smelt it so did the license holder. How long would you put up with this abuse and violation of your personal property? How many months will the AMCO allow this continue? Six months, a year?

How many complaints do you need before you investigate? To date there are 11 complaints and two violations on file. Are these residents paying the price because you are under staffed? Why doesn't this license have appropriate odor control equipment? Have you confirmed any upgrade in equipment since the first violation was provided in June?

On one of the two AMCO enforcement follow-ups- the compliance officer spoke to several individuals working directly across from this license (approximately 350 feet from the facility). They shared that they had smelt marijuana throughout the day. Your enforcement officer submitted a violation for that visit even though he did not smell it. Be mindful, these individuals were standing at the exact location where our children catch the school bus four times a day for the past 10 years and school has started- all shared with the AMCO. Does it take a third party to experience odor (along with the resident) to produce a violation- as it did in the above situation? If so, please let our residents know this so they can have a third party present when marijuana odor is engulfing their property so they too can testify to that fact.

Detecting odor and complying with regulations for a marijuana cultivation facilities is not new. Other states and cities compliance officers and police departments have been using a tool called Nasal Ranger. It is an olfactometer, or smell-o-scope designed to determine the strength of marijuana. This can be provided to residents where there is continuous abuse of odor- after 4pm when your office is closed and on weekends when no one can respond. This tool will allow you to verify odor and assist with a cultivation facilities ability to maintain their compliance requirements with the AMCO. It will stop the abuse to residual landowners who deserve to live on their property without a neighbor affecting their quality of life. More importantly, you are not wasting time investigating odor after the fact. You are playing cat and mouse without a tool to assist you in documenting odor emissions when you do not accept a residents word for it.

The AMCO is still in its infancy. You are fine tuning your regulations and requirements to meet your goals and requirements at every meeting you hold. My concerns with current enforcement shortcomings and my suggestions come to you on behalf of residents and in the anticipation of your growth.

I ask you to consider my suggestions in hopes that they will assist you with the success of the AMCO's obligations to the State of Alaska, who's statutes are in place to protect our residents.

Sincerely,

Sam A. Hanson  
Alaskan Resident since 1959  
Residential Homeowner- Shaw's Tri-Lakes Core Area

cc: Alaska Senator Mike Showers, MSB, Assemblyman Jessie Somner