

**Fahey Schultz
Burzych Rhodes**

EXPERT COUNSEL



REAL SOLUTIONS

Industrial Hemp: What It Is and What Your Township Can Do

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NOVEMBER 16, 2022



DISCLAIMER

- This presentation, and the materials associated with it, are comprised of general information and not intended as legal advice related to specific questions of attorney-client privilege.
- Please contact an attorney if you need assistance related to a specific legal issue.





WHAT IS HEMP?

- Industrial hemp is derived from the plant species *Cannabis Sativa L* and is used worldwide to produce a variety of industrial and consumer products



HEMP V MARIHUANA

Industrial
hemp
contains
0.3% or
less THC

Hemp and marihuana are both derived from cannabis plants, but the key legal factor is the amount of tetrahydrocannabinol (THC)— the chemical compound responsible for the psychoactive effects of marihuana



Michigan Industrial Hemp Research and Development Act, authorized growing and cultivating of hemp for research and development purposes

2014

Michigan Industrial Hemp Growers Act, established hemp cultivation requirements that were consistent with USDA's Interim Final Rules

2020

2018

Federal Farm Bill, legalized the production of hemp as an agricultural commodity while removing it from the list of controlled substances.

REGULATION OF HEMP



GROWING INDUSTRIAL HEMP

- MDARD Application Requirements:
 - Provide total acreage or square footage
 - Identify address and GPS coordinates of each field, greenhouse, building or other location where industrial hemp will be grown, along with maps depicting same.
 - Criminal Histories
- Exempt from disclosure under FOIA
- Specific statutory criteria for denial



GROWER RESPONSIBILITIES

- Report acreage and registration information to the USDA and MDARD
- Allow law enforcement inspection without notice
- Signage at the boundaries of each growing area
- Test crops for THC levels and provide sample to MDARD prior to harvesting
- Allow MDARD to investigate complaints
 - Provide access to production to any structures related to the production of industrial hemp
 - Provide business records that MDARD determines necessary
 - Allow the collection of hemp samples





GROWER LIMITATIONS

- May not be grown within a dwelling
- May not sell or transport industrial hemp plants or seed
- May not sell raw industrial hemp to anyone other than a processor-handler or medical marijuana facilities





HEMP PROCESSOR- HANDLERS

- A processor-handler refers to a person licensed to process, handle, broker, or market industrial hemp
- A processor-handler must submit an application but to the Cannabis Regulatory Agency
- It includes the location and GPS coordinates where industrial hemp will be processed
- Processor-handler applications are exempt from disclosure under FOIA



THE MANY USES OF HEMP

LEAVES / FLOWERS

- Medicine recreation.
- Pharmaceutical consumables.
- Animal bedding.

ROOTS

- Medicine.
- Organic compost.
- Improves soil health.
- Reduces water pollution.
- Benefits crop rotation.

With over 50,000 different uses



HEMP STALKS

HURDS



PAPER



FIBER BOARD



ORGANIC COMPOST



ANIMAL BEDDING

FIBER



TEXTILE



ROPE



INSULATION

HEMP SEEDS

OIL



COOKING OIL



BODY CARE PRODUCTS



DIETARY SUPPLEMENT



PAINT



FUEL

HEMP NUT



GRANOLA



BAKERY



PROTEIN POWDER



MILK / DAIRY

SEDD CAKE



FLOUR



ANIMAL FEED



BEER

Image by pikisuperstar on Freepik

CANNABIDIOL OIL (CBD OIL)

- Cannabidiol (“CBD”) is concentrated in the hemp buds and leaves
- CBD compounds can be found in various products (tinctures, skin creams and oils) claiming relief from anxiety, pain, sleeplessness and other ailments.
- Most popular use for hemp is processing into cannabidiol (“CBD”) oil, representing 70% of Michigan hemp growers in 2020.
- Trade associations and MDARD recognized that CBD is not a food product



CANNABIDIOL OIL (CBD OIL)

WARNING LETTER

Plantacea, LLC dba Kahm

MARCS-CMS 623508 – MAY 26, 2022

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Warning Letters

[About Warning and Close-Out Letters](#)

Delivery Method: Via Email

Product: Animal & Veterinary Drugs
Food & Beverages

Recipient:
Casey Bales and Brian Frye
Managing Members
Plantacea, LLC dba Kahm
8820 W Russell Rd; Suite 140
Las Vegas, NV 89148
United States
orders@kahmcbd.com

Issuing Office:
Center for Veterinary Medicine
United States

WARNING LETTER

May 26, 2022

RE: 623508

Content current as of:
05/26/2022

Regulated Product(s)
Animal & Veterinary Drugs
Food & Beverages

RE: 623508

Dear Casey Bales and Brian Frye:

This letter is to advise you that the U.S. Food and Drug Administration (FDA) reviewed your website at the Internet address <https://kahmcbd.com/> in May 2022 and has determined that you take orders there for various human and animal products, many of which you promote as products containing cannabidiol (CBD). We have also reviewed your social media websites at <https://www.facebook.com/KahmCBD>, <https://www.instagram.com/kahmcbd/>, and https://www.youtube.com/channel/UC6RF1gxSlR1TScnz_ig1oUQ; these social media websites direct consumers to your website <https://kahmcbd.com/> to purchase your products.

The claims on your website and social media websites establish that your products “CBD Hemp Pellets” and “K9 Soft Chews,” which you promote as products containing CBD for use in animals, are unapproved new animal drugs that are unsafe under section 512(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), 21 U.S.C. 360b(a), and adulterated under section 501(a)(5) of the FD&C Act, 21 U.S.C. 351(a)(5).

In addition, your CBD products for human use, “Kahm EQUIPASS RELIEF GEL,” “Kahm CBD MUSCLE FREEZE ROLL ON,” “Kahm BODY CREAM,” “Kahm CBD BROAD SPECTRUM HEMP EXTRACT” (all varieties), and “Kahm CBD NANO CBD SALVE” (hereinafter “Kahm CBD products for humans”), as well as your “Tanka 30 day CBD Band,” “Tanka T-FLEX Band” and “Tanka Collagen Band,”



TOWNSHIP INVOLVEMENT

- Township can keep an eye out on any growing or processing activity.
- Location and license information must be posted at growing sites.
- Conform to the minimum requirements of the Act and report any illicit behavior.



TOWNSHIP INVOLVEMENT

- Townships may be able to enforce some zoning control.
- Some success with special land use permits
 - Especially processor-handler operations
 - Inherent industrial nature
- Preemptions sections
 - Industrial Hemp Research and Development Act
 - Industrial Hemp Growers Act



TOWNSHIP INVOLVEMENT

- Federal 2023 Farm Bill
 - Provide Input: <https://agriculture.house.gov/forms/form/?ID=9>
- Regulations are being updated and reviewed.
- Local governments remain relevant.
- Township attorney can assist with regulation and compliance.





QUESTIONS

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