



STATE OF KANSAS  
Tenth Judicial District

## OFFICE OF DISTRICT ATTORNEY

STEPHEN M. HOWE, DISTRICT ATTORNEY

### PRESS RELEASE - FOR IMMEDIATE RELEASE

From: Steve Howe  
(Olathe, KS)

Date: February 22, 2022

### **JOHNSON COUNTY DISTRICT ATTORNEY STEVE HOWE MAKES THE FOLLOWING ANNOUNCEMENT**

Since the enactment of the Kansas Commercial Industrial Hemp Act in 2018, misinformation has been disseminated to businesses, consumers, and the public on the legality of a cannabinoid known as Delta-8 THC in Kansas. To add clarity to this issue the Johnson County District Attorney's Office and several other jurisdictions across the State asked the Attorney General for a legal opinion on this issue. On December 2<sup>nd</sup>, 2021 the Attorney General issued opinion No. 2021-4, which found that Delta-8 THC is a Schedule I controlled substance and is unlawful to possess or sell in Kansas. The only exception is when it is (1) made from industrial hemp, and (2) if it is industrial hemp, it must contain no more than .3% total tetrahydrocannabinols.

We have begun providing written notice to businesses selling these products. This notice allows them until March 20, 2022 to remove these products from their stores, before they could be subject to criminal penalties. A copy of the letter is attached. We look forward to working with the affected businesses to assist them in complying with Kansas law.

I want to remind everyone that in a democracy the legislative branch of government makes the laws. The Attorney General and other prosecutors across the State like myself are part of the executive branch whose job is to enforce the law.

While we are sympathetic to the plight of many who suffer from a variety of ailments and conditions and seek help in easing their pain, we have a duty to ensure that unlawful products are not being sold to consumers and that these substances go through proper vetting processes to insure they are safe to consumers. Delta-8 THC is a hallucinogenic drug and thus cannot be sold to the public.

We are hoping the Kansas Legislature will provide further clarity to this issue during the next legislative session.

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\_\_\_\_\_, KS  
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Since the enactment of the Kansas Commercial Industrial Hemp Act in 2018, misinformation has been disseminated to businesses, consumers, and the public on the legality of a cannabinoid known as Delta-8 THC in Kansas. To add clarity to this issue the Johnson County District Attorney's Office and several other jurisdictions across the State asked the Attorney General for a legal opinion on this issue. On December 2<sup>nd</sup>, 2021 the Attorney General issued its opinion. That opinion can be found at [AGO 2021-004 \(ks.gov\)](#). That opinion found that Delta-8 THC is a Schedule I controlled substance and is unlawful to possess or sell in Kansas. The only exception is when it is (1) made from industrial hemp, and (2) if it is industrial hemp, it must contain no more than .3% total tetrahydrocannabinols.

The Attorney General has determined that, pursuant to the Kansas Commercial Industrial Hemp Act (Act), it is unlawful to manufacture, market, sell, or distribute the following hemp products: cigarettes, cigars, teas, or substances for use in vaping devices in Kansas. It is also unlawful under the Act to market, sell or distribute the buds of industrial hemp plants and ground floral or leaf material from industrial hemp plants to consumers in Kansas.

In addition, the Attorney General noted that federal law prohibits the sale by interstate commerce where any food to which THC or CBD has been added to products such as (i.e. gummies) and dietary supplements that contain THC or CBD or products that claim to prevent, diagnose, treat, or cure diseases.

We have learned that your business may be selling unlawful Delta-8 THC products as set forth above. We are providing your company written notice of the illegality of these

products. You have an opportunity to voluntarily remove these products from your store shelves and no longer sell them to consumers. You have until the close of business on March 20, 2022 to accomplish this. Failure to remove these illegal products from your shelves by March 20th could result in your business, its owners and employees being subject to criminal penalties.

Thank you for your immediate attention and cooperation on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen M. Howe", written over a light blue horizontal line.

Stephen M. Howe  
Johnson County District Attorney