

PLCB Bans CBD

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On June 23, 2021, the Pennsylvania Liquor Control Board (“PLCB”) granted permission for all retail licensees to sell CBD products on their licensed premises. At its December 15, 2021 session, the PLCB decided to amend Advisory Notice No. 9, which establishes guidelines relating to the provisions of the liquor code and PLCB regulations authorizing whether a distributor or importing distributor may engage in the sale, rental, or use of certain products. This amendment allowed for distributors or importing distributors of malt or brewed beverages (along with retail licensees) to sell various cannabidiol (“CBD”) products to both the general public and other licensees of the PLCB. We reasoned that this decision also allowed breweries to sell such items.

As we previously discussed, the Pennsylvania Department of Agriculture was appointed to oversee Pennsylvania’s Industrial Hemp Pilot Program in 2016. At its most recent board meeting, the PLCB reversed its course on CBD. The decision to rescind approval of consumable CBD products was made after discussions with and at the request of the Pennsylvania Department of Agriculture, which had indicated that the sale of those products is unlawful in Pennsylvania.

Specifically, the PLCB rescinded its June and December decisions allowing retail licensees, distributors, and importing distributors to sell consumable CBD products on the licensed premises.

Now, due to PLCB rescinding this decision, consumable CBD products such as gummies, edibles, non-alcoholic beverages, and tinctures are not allowed to be sold by retail licensees, distributors, or importing distributors. Non-consumable CBD products, such as topical creams/lotions, pouches, and vapors, are still allowed to be sold on the licensed premises. What is unclear is whether the Department of Agriculture prohibited just the sale of all consumable CBD products in Pennsylvania. We believe, however, that regardless of the Pennsylvania Department of Agriculture’s position, breweries can still produce CBD (derived from hemp seed oil) infused beer with appropriate formula and labeling approval.

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