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Federal Alcohol Regulator follows FDA, No CBD in Beer, Wine and Liquor

While hemp is now legal under state and federal law, the Alcohol and Tobacco Tax and Trade Bureau (TTB) has made clear that cannabidiol (CBD), a product derived from hemp, is not a permitted ingredient in alcohol beverages quite yet.

The use of hemp and CBD in various products has proliferated in recent months, and the public and stakeholders have looked to the Food and Drug Administration's (FDA) and TTB for guidance.

On April 26, 2019, the TTB issued an [industry circular](#)¹, making clear the TTB will look to the FDA for determinations on whether hemp ingredients such as CBD may be included in food or alcohol. The FDA recently has reiterated that CBD is not a permitted ingredient in food or dietary supplements under federal law. The FDA is, however, beginning the process of reevaluating this position which could lead to an administrative rulemaking.

Following the approach of the FDA, the TTB has stated it will not approve alcohol beverage formulas including certain hemp ingredients, including CBD. However, hemp seeds and hemp seed oil are approved ingredients as they comply with FDA regulations.

There are a couple key points to consider following the statement by the TTB:

- All alcohol beverages sold in the United States require formula approval by the TTB, even if the alcohol is sold exclusively within a single state. In comparison, the FDA regulates interstate commerce, therefore, food, beverages and dietary supplements produced and marketed exclusively in a single state may be beyond the scope of FDA regulation (but may subject to state specific regulations).
- Certain alcohol beverages may still be legally marketed as containing hemp. However, those products may only contain hemp seeds or hemp seed oil. Both the TTB and the FDA have approved hemp seeds and hemp seed oil as permitted food additives or ingredients. The TTB also left open the possibility of approving other parts of the hemp plant that don't include CBD or THC.
- The FDA is holding a public hearing on May 31, 2019, where it is seeking data and information regarding the safety of products containing CBD. The TTB appears likely to follow the lead of whatever decision is ultimately reached by the FDA. The TTB stated it will be issuing more detailed guidance regarding CBD and hemp as well.
- The TTB further reiterated it will not approve formulas containing marijuana, or other controlled substances.

The information in this article is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.

¹ For more information on industry circular, [click here](#).

The 2018 Farm Bill made hemp a legitimate commercial crop and removed hemp from the Controlled Substances Act. Similar legislation in Wisconsin also legalized hemp at the state level. However, hemp and its derivatives, including CBD, remain regulated products. The FDA regulates hemp and CBD as ingredients in food, dietary supplements and cosmetics. The TTB regulates alcohol beverage formulas and ingredients.

Please do not hesitate to contact us with additional questions or concerns surrounding CBD, the TTB regulations, the 2018 Farm Bill, or Wisconsin's industrial hemp pilot program.