Hemp and CBD Sales Bill Cultivated in Ohio

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Hemp is not marijuana – let us start there. This is a critical distinction the Ohio legislature has learned through the lobbying efforts of our firm's government relations subsidiary, CivicPoint LLC. CivicPoint has helped inform state lawmakers and advance a bill to legalize hemp and hemp-derived cannabidiol (CBD) products.

On March 28, 2019, the Ohio Senate, by a 30-0 vote, passed a bill to legalize hemp and hemp-derived CBD and sent it to the House of Representatives for further consideration. Senate Bill 57 would set up a framework for regulating hemp cultivation and processing, which includes extracting the compound CBD from the hemp plant for sale.

By way of background, within the cannabis plant family, there exists the hemp plant and the marijuana plant. The plants are different in chemical make-up. While the hemp plant and the marijuana plant both contain cannabidiol (CBD) and tetrahydrocannabinol (THC), *the hemp plant only contains a trace amount of THC* – a compound that creates the euphoric feeling associated with marijuana. Thus, CBD extracted from the hemp plant can be manufactured into various products for consumers, including products that may be safely ingested.

When Ohio passed its medical marijuana law (O.R.C. 3796, et. seq.), questions concerning the legality of CBD products, whether derived from the hemp or marijuana plant, began to be raised because Ohio's legal definition of "marihuana" (O.R.C. 3719.01) included "all parts of a plant of the genus 'cannabis'" – thus capturing hemp and marijuana plants. Consequently, the State Board of Pharmacy, which controls part of Ohio's Medical Marijuana Program, advised that all CBD products, whether derived from hemp or marijuana plants, were only legal if "cultivated, processed, dispensed, tested, possessed, or used for a medical purpose" under the Ohio Medical Marijuana Control Program, as per Section 3796.01(A)(2) of the Ohio Revised Code. In other words, under the State Board of Pharmacy's interpretation, only licensed medical marijuana dispensaries within

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the Ohio Medical Marijuana Control Program may legally sell CBD products to registered medical marijuana patients and their designated caregivers. Senate Bill 57 aims to change that by making hemp-derived CBD products legal and treated separately from medical marijuana; however, all hemp and hemp products would have to be tested to ensure that they do in fact only contain trace amounts of THC. To be considered legal, those products would have to contain less than 0.3% THC.

Senate Bill 57 is backed by the Ohio Farm Bureau Federation, Ohio Chamber of Commerce, and the Ohio Council of Retail Merchants. Farmers would be allowed to grow hemp under a three-year license from the Ohio Department of Agriculture, and universities would be able to grow or process hemp and hemp-derived CBD for research without obtaining a license from the state.

Our Frost Brown Todd hemp team has been advising clients in the industrial hemp business for years. Further, our government relations subsidiary, CivicPoint, has been instrumental in hemp lobbying efforts leading to the development of groundbreaking hemp legislation at the state and federal level, including the recent 2018 Farm Bill. Our CivicPoint team also worked with lawmakers who passed one of the nation's first hemp bills in Kentucky and knows the ins and outs of the industry which is poised for explosive growth.

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