

Ohio is a Prime Market for CBD-Related Products

By Madison Lisotto Whalen

With the recent passage of Ohio Senate Bill 57 (“SB 57”) legalizing hemp and hemp-derived cannabidiol (“CBD”), Ohio has become a prime market for CBD products. The Agricultural Improvement Act of 2018 (“2018 Farm Bill”) cleared the way to legalize CBD at the federal level by removing hemp, and its derivatives, from the list of federally controlled substances and allowing state-run hemp programs. The CBD Awareness Project recently compiled a list of the top 25 cities that would benefit most from using CBD, based on health-related concerns, with results showing that four Ohio cities made the list:

- Columbus, OH – #16
- Cincinnati, OH – #6
- Cleveland, OH – #4
- Toledo, OH – #3

The list was compiled using the Centers for Disease Control and Prevention [500 Cities Project](#), 2018 release, using the percentage of adults in each city suffering from poor mental health (including depression and anxiety), arthritis, diabetes, high blood pressure, cancer, sleeping less than seven hours per night and adults who smoke. These particular conditions are often cited as ailments for which CBD can be used therapeutically. With four Ohio cities on the list and favorable Ohio legislation in place, there is strong evidence that CBD brands should focus on Ohio when marketing and selling products.

The market for CBD sales in the United States is expected to exceed \$20 billion by 2024, taking into account products sold through licensed dispensaries, pharmaceuticals and especially in general retail where the majority of CBD product sales are expected to take place. There is substantial consumer interest in ingestibles (foods, beverages, and pills) and topicals (creams, balms, and salves) which has not yet been fully explored. There are a host of medical conditions and cosmetic uses for which CBD can be used (not already mentioned in the list above), such as uses in skincare and the reduction of acne, treatment of autism, and benefits for heart health and those with neurological disorders such as epilepsy and multiple sclerosis. Although Epidiolex®, a drug used to treat childhood epilepsy, is the only cannabis-based drug with U.S. Food and Drug Administration approval.

While Ohio is primed for the sale of CBD and other hemp products, legal risks remain and should be taken into consideration when conducting any business in this industry. SB 57 places primary authority for the regulation of hemp with the Ohio Department of Agriculture and states that CBD products would be tested for “safety and accurate labeling to protect Ohio consumers.” SB 57 also sets out various licensing requirements.

At the federal level, the U.S. Department of Agriculture, as well as the FDA, Department of Justice, and Federal Trade Commission all have regulatory authority over CBD products. Notably, the FDA’s position is that all products containing CBD are considered to be drugs rather than dietary supplements or food additives, and thus the FDA has authority over them. This was made clear upon the FDA approval of the above-mentioned Epidiolex® which contains CBD. The FDA held a public hearing in May 2019 to address concerns regarding CBD where it stressed the need to “further clarify the regulatory framework” and address “key questions about product safety.”

If you have questions or concerns about the CBD and hemp industries, please contact any of the listed Roetzel attorneys.

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