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## **Notice to Food Establishments regarding Cannabidiol (CBD) in Food**

Dear Food Establishment Owners and Operators:

The Talbot County Health Department (“TCHD”) is aware of the interest of retail food service facilities in adding cannabidiols (“CBD”) to foods and beverages such as coffee, tea, alcoholic beverages, kombucha, ice cream, cookies, smoothies, etc. Following guidance from the U.S. Food and Drug Administration (“FDA”), it is the position of the Maryland Department of Health (“the Department”) that the addition of CBD into foods or beverages is not allowed, as discussed below. Several food service establishments in Maryland, including Talbot County, have been cited for violations of State law following investigations concerning the sale and service of food and beverages that have either been made with CBD, or in which CBD has been added in any way to foods or beverages.

The TCHD wants you to be aware of the current legal status of CBD in foods in Maryland. CBD has not been approved as a food additive by either the FDA or the Department. Therefore, food and beverages that have either been made with CBD, or in which CBD has been added in any way, are considered adulterated and are not to be used, sold, or served.

**Therefore, please be advised that it is unlawful under the Food Drug and Cosmetic Act to introduce food containing added CBD or THC into interstate commerce, or to market CBD or THC products as, or in, dietary supplements, regardless of whether the substances are hemp-derived.**

Under Maryland Health General §21-256 it is unlawful for any establishment to manufacture, sell, offer for sale or receive in commerce any food that is adulterated. **Any food or beverage offered for sale in Maryland that contains CBD or THC products is considered adulterated.**

### **Background**

On December 20, 2018, the Federal 2018 Agricultural Improvement Act was signed into law removing hemp from the list of controlled substances. However, only very specific parts of the hemp plant can be added to food without additive approval because they do not contain cannabinoids. Specifically, hulled hemp seeds, hemp seed protein, and hemp seed oil are on the Generally Recognized as Safe (GRAS) list. Food items labeled as having “hulled hemp seed,” “hemp seed protein,” or “hemp seed oil” are not CBD and are therefore allowed as food additives. CBD, whether hemp derived or other, has not been approved by the FDA as a food additive.

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Additionally, under the Food Drug and Cosmetic Act, foods containing CBD may not be sold through interstate commerce. Pre-packaged, non-potentially hazardous foods and beverages that are obtained from a company outside of the State of Maryland containing CBD should not be offered for sale. All food and beverage products sold at a retail establishment, whether licensed as a food service facility or not, must come from an approved source, not be adulterated, misbranded, or contaminated with microorganisms.

As Federal guidance and the legal environment evolve, the Department will provide additional guidance and continue to work with the local health departments. Please visit the Department's Office of Food Protection website at [phpa.health.maryland.ov/oehfp/ofpchs/pages/home.aspx](http://phpa.health.maryland.ov/oehfp/ofpchs/pages/home.aspx) for additional information or you may visit the FDA's questions and answers website specific to FDA and Marijuana at [https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm#enforcement\\_action](https://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm#enforcement_action).

Please contact the TCHD, Office of Environmental Health, at 410-770-6880, if you have any questions or concerns regarding the addition of CBD in food or beverages or a specific product containing CBD.

Sincerely,



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Anne Morse, Director

Office of Environmental Health,

Talbot County Health Department

410-770-6880 (O)

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