

FAQ – Industrial Hemp and Cannabidiol (CBD) in Food Products

The Washoe County Health District (WCHD) has received an increase in questions from retail and manufactured food establishment operators who are interested in adding industrial hemp-derived cannabidiol (CBD) oil or CBD products in food.

In Nevada, it is legal to purchase recreational marijuana, CBD products (including foods containing CBD) manufactured and/or sold only in Nevada licensed dispensaries. These establishments are regulated by the State of Nevada Department of Taxation. However, food products containing industrial hemp manufactured and sold outside a licensed facility are not covered by the Nevada Department of Taxation. Instead, these products, if sold or served in Washoe County, are regulated by the WCHD.

Under the provisions of the 2014 U.S. Farm Bill, the 2015 Nevada Senate Bill (SB) 305 and the 2016 Nevada SB 396, industrial hemp can be produced in Nevada under the supervision of the Nevada Department of Agriculture (NDA) through its research and development program. Industrial hemp is a plant variety derived from the genus *Cannabis sativa* L. and is among the same species as marijuana. To grow hemp legally in Nevada, THC concentrations must stay below the 0.3 percent threshold. Please refer to the NDA website for more information on industrial hemp:

http://agri.nv.gov/Plant/Seed_Certification/Industrial_Hemp/Industrial_Hemp_Home/

Food establishments operating under WCHD jurisdiction must comply with the Regulations of the Washoe County District Board of Health Governing Food Establishments which incorporate federal law regarding food additives, dietary use products and food labeling. Currently, the U.S. Food and Drug Administration (FDA) has concluded that under the federal Food Drug and Cosmetic Act (FD&C Act), it is illegal to add any product containing THC or CBD in food. Therefore, the use of industrial hemp as the source of CBD to be added to food products is prohibited. Until the FDA rules that industrial hemp-derived CBD oil and CBD products can be used in food, or the State of Nevada makes a determination that they are safe to use for human consumption, CBD products are not an approved food, food ingredient, food additive, or dietary supplement. Please refer to the FDA website for more information on the regulation of products containing cannabis and cannabis derived compounds:

<https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-signing-agriculture-improvement-act-and-agencys>.

Frequently Asked Questions:

1. What forms of industrial hemp derived products will and will NOT be allowed in food in WCHD regulated establishments?

Will be allowed in food (without any claim for health benefits):

- Seeds derived from industrial hemp
- Industrial hemp seed oil
- Industrial hemp seed protein powder

Will NOT be allowed in food:

- *Any CBD products derived from cannabis*
- *Any CBD products including CBD oil derived from industrial hemp*
- *Hemp oil that is not derived from industrial hemp seeds*
- *Industrial hemp seed oil enhanced with CBD or other cannabidnoids*

2. Is hemp seed oil the same as CBD?

No. Industrial hemp seed oil and hemp-derived CBD oil are two different products. Industrial hemp seed oil is derived from the seeds of Cannabis sativa L. plants and may contain trace amounts of naturally occurring CBD and other cannabinoids. Food grade industrial hemp seed oil is available from a variety of approved sources.

However, CBD or CBD oil contains high levels of the CBD compound and is extracted from the stalks, leaves, or buds of the plant. CBD or CBD oil is NOT approved for human consumption and cannot be used in food, or dietary supplements.

3. How do I know what type of oil is in a product labeled “hemp oil”?

Confusion often arises because both CBD oil and hemp seed oil may be referred to as “hemp oil.” If a product is labeled as hemp oil, you can determine which oil it is by checking the label or asking the manufacturer to provide additional information on the source of the hemp oil. If the product contains CBD, then it is CBD oil and is NOT approved for human consumption.

4. Where can I legally purchase food products containing CBD?

Under the provisions of SB 396, industrial hemp products intended for human consumption, like CBD oil, can be sold in licensed marijuana facilities throughout Nevada.

5. Does the WCHD regulate CBD oil and CBD products not intended for human consumption?

No, the WCHD regulations governing food establishments only cover products intended for human consumption. Therefore, the WCHD does not regulate cosmetics or other creams and

oils containing CBD not marketed or intended for human consumption. However, the federal laws governing cosmetics and health claims associated with these products still apply. Cosmetic manufacturing facilities in Nevada are overseen by the Nevada Division of Public and Behavioral Health.

6. I receive my CBD oil from a facility that is compliant with the Farm Bill. Doesn't that mean it's legal to add CBD oil in food products?

No, the Farm Bill legalized the production, sale and distribution of industrial hemp at the federal level. However, food establishments operating in Washoe County must still comply with other applicable laws including the FD&C Act, Nevada Revised Statute, and the Regulations of the Washoe County District Board of Health Governing Food Establishments which prohibit unapproved additives in food. Hemp-derived CBD oil is an unapproved additive and CANNOT be added to any food products or dietary supplements.

7. Can industrial hemp derived CBD food products be allowed for sale in Washoe County if they come from other States? For example, if industrial hemp derived CBD food products are manufactured and packaged in another state; can they be sold to customers in Washoe County via distributors and retailers?

No, CBD is an unapproved food additive and is NOT allowed for use in any human food in Washoe County establishments regardless of where the CBD products originate.