



Nabil Rodriguez

Associate
303.295.8056
Denver
narodriguez@hollandhart.com

Over-the-Counter but Underregulated – The Facts About Pet Products Containing CBD and Hemp

Insight — 09/27/2022

The market for pet CBD has soared from almost zero in 2016 to roughly \$60 million last year. By 2025, Nielsen Global Connect, a division of Nielsen that focuses on data for manufacturers and retailers, estimates that hemp-derived CBD pet products will generate \$175-225 million in annual sales across all channels, roughly 3% of the expected \$6-7 billion hemp-derived CBD consumer products market.

Conventional retailers jumped on the CBD bandwagon after the 2018 Farm Bill removed hemp and its derivatives from the controlled substances list. Since then, hemp-derived CBD products have flooded retail shelves and online stores. Large and small pet stores also picked up the category, stocking hemp-derived CBD pet food, treats, supplements, and vitamins formulated for dogs and cats.

According to the Food and Drug Administration (FDA), CBD or any other hemp-containing products have not been approved for use in animals as drugs or food/feed supplements, which are the only two legal options for marketing animal products in the US. Since there are no FDA-approved drug products that contain CBD, the use of CBD in any product, whether for use in humans or animals, makes that product an “unapproved new drug” or “unapproved new animal drug.” New animal drugs, as well as new animal food products, are subject to pre-market approval.

Yet, CBD companies continue to roll out products formulated for animals — particularly for small animals kept as pets such as cats and dogs — because customers want them.

Pet owners are asking their veterinarians about the use of CBD animal products for conditions ranging from arthritis to anxiety. When a veterinarian prescribes, administers, or recommends a product, they are usually doing so with the intent to prevent, treat, diminish, or cure a disease or condition. According to the American Veterinary Medical Association, “Products for animals for which therapeutic claims are made that have not been evaluated and approved by the FDA are unapproved animal drugs. Unapproved animal drugs are 'unsafe' under the FDCA, because they have not been shown to meet FDA standards for safety and efficacy for their intended use.” Since there are currently no approved cannabis-derived drugs for animals, the use of these unapproved drugs can put pets at risk and possibly create legal risks for veterinarians who

may administer, dispense, or recommend them.

Many veterinarians are reluctant or even refuse to discuss the use of CBD in a pet's daily health regimen. Even if a veterinarian fully supports CBD use in pets and is aware of possible benefits of hemp-derived CBD, discussing it with pet parents could put their medical license at risk in most states. Only a few states have addressed the use of CBD in pets; most notably, California and Nevada have specific laws that allow vets to discuss the use of CBD with their clients.

With respect to CBD products in general, some states haven't decided that CBD is illegal, but they have specific rules around the substance and how it can be made, purchased, and used. Some have legalized it only for medical purposes or have only legalized CBD that is certified THC-free.

CONCLUSION

Laws around medical and recreational marijuana, cannabis, and CBD regulations have changed dramatically and rapidly over the past several years, and it's important to stay abreast of the laws in your state. It remains to be seen if (or when) the FDA will approve CBD products for use in animals and what sort of labeling requirements will be applied to those products.

References

FDA Center for Veterinary Medicine. (2022, May 26). *FDA Warns Four Companies for Illegally Selling CBD Products Intended for Use in Food-Producing Animals*. Retrieved from U.S. Food & Drug Administration: <https://www.fda.gov/animal-veterinary/cvm-updates/fda-warns-four-companies-illegally-selling-cbd-products-intended-use-food-producing-animals>

Nielsen Global Connect. (2019, December 19). *Analysis: 2020 forecast for the U.S. hemp-CBD and CPG Industries*. Retrieved from NielsenIQ: <https://nielseniq.com/global/en/insights/analysis/2019/our-2020-forecast-for-the-us-hemp-cbd-and-cpg-industries/>

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.

