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57th JUDICIAL CIRCUIT, DUBOIS COUNTY, INDIANA

July 6, 2023

[Retailer Name]
[Retailer Address]

Re: Sale of Miscellaneous Schedule I Controlled Substance and/or Smokable Hemp Products

To Whom It May Concern:

It has come to our attention that you may have Delta 8 products available for sale at your place of business. As you likely are aware, the legality of Delta 8 has been a discussion point for some time now for prosecutors and law enforcement across the state.

On January 12, 2023, the Indiana Attorney General's Office issued an official opinion that Tetrahydrocannabinol Variants and Other Designer Cannabinoid products (which would include Delta 8) DOES fall under the statutory definition of a Schedule I Controlled Substance.

Therefore, I'm writing to inform you that if you continue to possess and/or sell those products, you (and/or your employees) could be charged with Dealing in a Controlled Substance under Indiana Code 35-48-4-2. Depending on the weight – that charge could be up to a Level 2 Felony which has the possibility of 10-30 years in prison.

Continuing to sell those products could also subject you to search warrants, subpoenas, forfeiture proceedings, and all other tools available under the law.

Another product you may have on your shelves is smokeable hemp. It is also not legal in Indiana under I.C. 35-48-4-10.1. There is, as you may know, an exception in the law for CBD products with less than 0.3% THC. That does not, however, include anything with THC that is smokable. Additionally, CBD products are within the definition of "Low THC hemp extract" under I.C. 35-48-1-17.5, which specifically excludes the flower or bud.

Finally, I.C. 35-48-4-10(d)(3) includes a Level 5 Felony for a retailer to sell anything they knew or should have known contains more than 0.3% Delta 9 THC packaged as low THC hemp extract.

So again, if you are selling either of those products – and continue to – you are risking legal action from law enforcement and my office. The best course of action is to immediately remove all Delta 8, Delta 9, Delta 10, Delta X (and any other designer cannabinoid products) and Smokeable Hemp products from your shelves and do not sell or use them in the future.

Feel free to contact my office with further questions.

Sincerely,

/s/ Beth E. Schroeder
Beth E. Schroeder
Prosecuting Attorney

Attachment: Official Opinion 2023-1 from the Attorney General

********************************Service by Sheriff*******************