

Small Business Notes

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New Minnesota Law on Use of Cannabinoids May Affect Employer Testing

On June 2, 2022, the Governor signed into law HF 4065, a health care policy bill, which contained language allowing the sale and consumption of edible products containing not more than 5mg of hemp derived THC per serving or not more 50mg per package. (The bill language as signed appears in [2022 Minn. Laws, Chap. 98; Art.13; Sec. 3-6](#)).

There are two important points for employers:

- Marijuana (which contains a greater concentration of a different form of THC) remains illegal under federal law.
- While Minnesota law allows employees to consume lawful substances on their own time, employers may discipline employees for being under the influence of drugs while on the job. A difficulty which may emerge in this area involves employee testing. Most tests record only a “positive” or “negative” outcome and do not measure the amount or kind of THC. This can lead to an employee who has recently used a legal hemp derived cannabinoid being flagged as “hot” for an illegal drug.

Expect more public and legislative discussion on the issues surrounding legal hemp derived products and also more discussion on the legalization for private use of marijuana.

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Consumer Products Manufacturers Take Note: Federal Trade Commission (FTC) Enters Consent Agreement with Grill Manufacturer Weber Over “Right to Repair”

On July 7, 2022, the FTC entered not a consent agreement with Weber-Stephen Products, LLC, the manufacturer of Weber barbecue grills, cookers, and smokers under which Weber agreed that it would not expressly or by implication condition the warranty for any of its consumer products on the consumer’s using exclusively parts identified by the Weber brand, trade or corporate name. Consumers are free to use whatever repair or replacement parts they wish and get repair service wherever they wish.

This is one of three recent settlements with the FTC by consumer products manufacturers over the consumer’s “right to repair” a product with parts other than the manufacturer’s parts without voiding the original warranty. It is significant that this settlement uses a broad definition of “consumer products” to mean ...“any tangible personal product which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).”

Specifically in this case the settlement contained language that Weber would not make any representation:

- That a warranty is void if the consumer uses unauthorized or third party parts or services;
- That a warranty is or may be void if a consumer makes any modification to the consumer product without Weber’s approval;
- That as a condition of warranty coverage consumers use only genuine or authorized parts.

Weber is required under the terms of the settlement to identify consumers who purchased covered consumer products between May 1, 2012 and July 7, 2022 and inform them of the terms of the settlement. Going forward, Weber must clearly and conspicuously post on its website and mobile apps a copy of the settlement and new warranty language that complies with the settlement.

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