Theresa Conduah, Claire Chen Author Green Entrepreneur Article on California's AB-45 Law

October 22, 2021

RELATED PRACTICES CBD and Hemp

Over the past decade, the sale of CBD and other hemp-derived products has exploded in popularity, but legally CBD is still in murky territory.

While the 2018 Farm Bill legalized hemp at the federal level, federal and state agencies have been slow to clarify the kinds of products CBD may be added to. Notably, the FDA declared CBD-infused ingestibles illegal adulterants under the Food, Drug, and Cosmetic Act (FDCA), but it still has not issued any regulatory guidance.

The FDA's position on CBD has been echoed by many states, including California, which has treated CBD as an illegal adulterant under the Sherman Food, Drug and Cosmetic Act (the Sherman Act) since 2018.

But with the passage of Assembly Bill 45 (AB-45), California officially changes its course on CBD.

What the new law does

AB-45 amends the law to legalize certain CBD-infused food, beverage, and cosmetic products; establishes new labeling and advertising rules; restricts CBD inhalables, like e-cigarettes or vape pens; and addresses products containing Delta-8 THC and other cannabidiols.

AB-45 will have significant intellectual property and marketing implications as CBD companies look to bring their brands in compliance with the new law.

Marketing requirements

In addition to manufacturing requirements, AB-45 requires several different warning labels to be included on product packaging and creates several advertising requirements. For example, food and beverage products containing CBD must include a label, barcode, website, or other links to the certificate of analysis and the statement: "THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY."

Excerpted from *Green Entrepreneur*. To read the full article, click here.

© 2026 Haynes and Boone, LLP