

kightlaw

March 9, 2024

STRNG Holdings LLC
Attn. Scott Smit
5740 Logan St
Denver, CO 80216

Sent via email: Scott@ussupplyside.com

Re: Legal status of cannabis seeds under US federal law

Dear Mr. Smith:

This letter is written for STRNG Holdings LLC (STRNG) regarding the legal status of cannabis seeds. The specific question addressed is: **“Are cannabis seeds with delta-9 tetrahydrocannabinol (Δ 9-THC) concentrations not exceeding 0.3% on a dry weight basis (the “Legal Limit”) controlled substances in the United State of America (USA)?”** For the reasons set forth in this letter, the answer to this question is **“No”**. Cannabis seeds with Δ 9-THC concentrations that do not exceed the Legal Limit are lawful to possess, sell, distribute, and transport in interstate commerce in the USA. They may also lawfully be imported.

The legal analysis and conclusions contained in this letter apply solely to the laws and territory of the USA and are based on the Agricultural Improvement Act of 2018 (Farm Bill)¹, the federal Controlled Substances Act (CSA)², and a January 6, 2022 letter by the Drug Enforcement Administration (DEA) regarding cannabis seeds³. This letter does not address the laws and regulations of individual states regarding cannabis seeds. It also does not address the laws and regulations regarding marketing cannabis seeds for use by humans or animals. It solely addresses the legal status of cannabis seeds with Δ 9-THC concentrations within the Legal Limit under the CSA.

This letter is solely for STRNG, but I have been informed it may be shared with select third parties. All third parties are specifically advised that this letter is not intended to be legal advice for any party other than STRNG and should not be construed or relied upon as such. It is accurate as of the date above.

CANNABIS SEEDS ARE LAWFUL “HEMP” AND NOT CONTROLLED SUBSTANCES

In the USA, the term “cannabis” is not a legal term of art. It is a botanical term referring to the plant *cannabis sativa* L. Under the laws of the USA, cannabis is divided into two categories:

¹ <https://www.congress.gov/115/bills/hr2/BILLS-115hr2enr.pdf>

² 21 U.S. Code § 801 *et seq.*

³ <https://www.documentcloud.org/documents/21580238-21-7692-shane-pennington-cannabis-seeds-tissue-genetic-material-11-18-21-signed-1>

“marihuana”⁴ and “hemp”. Marijuana, which by definition contains Δ 9-THC concentrations in excess of the Legal Limit, is a schedule 1 controlled substance that is illegal to distribute or possess under most circumstances.⁵ On the other hand, hemp, which by definition contains Δ 9-THC concentrations within the Legal Limit, is not a controlled substance. It may lawfully be distributed and possessed.⁶

Cannabis seeds fall within the definition of lawful hemp and are not controlled substances. The Farm Bill, enacted in 2018, removed both “hemp” and “THC in hemp” from the CSA⁷. Cannabis materials that fall within the legal definition of “hemp” are lawful under federal law. The Farm Bill defines hemp expansively by including the cannabis plant and “*any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers*” with Δ 9-THC concentrations that do not exceed the Legal Limit.⁸

From a practical standpoint most, and likely all, cannabis seeds meet the legal definition of hemp. This is because cannabis seeds contain only miniscule quantities of Δ 9-THC. It is unlikely that any cannabis seeds contain Δ 9-THC concentrations that exceed the Legal Limit. A comprehensive study of cannabis seeds conducted in 2000⁹ found that even cannabis seeds considered to be “drug-type” (as opposed to “hemp-type”), which contain genetic material with the potential to grow high-THC cannabis varieties, had Δ 9-THC concentrations ranging between 0.00356% and 0.0124%, well within the Legal Limit of 0.3%. Notably, cannabis seeds produce negligible, if any, quantities of Δ 9-THC endogenously. Rather, it is during the harvesting process that hemp seeds come into contact with material from other parts of the plant, including Δ 9-THC, which can “stick” onto their outer shells.¹⁰ The same study found that 90% of the Δ 9-THC on cannabis seeds can be “*removed by a simple, quick wash with chloroform.*” For these reasons, it is reasonable to assume that most, and likely all, cannabis seeds of all varieties meet the definition of “hemp” and that properly washing

⁴ The pertinent USA statutes use the antiquated spelling, “marihuana”, rather than “marijuana”. This letter uses the more contemporary spelling, “marijuana”.

⁵ Many states have enacted laws and regulations allowing the production, distribution, and possession of marijuana. All of these laws and regulations are in direct conflict with the laws of the USA. Since all cannabis seeds are now considered lawful hemp under the laws of the USA, this letter does not address this unique situation regarding marijuana, nor does it address the specific laws of any individual states other than California.

⁶ Note that the laws and regulations of the individual states differ regarding distribution and possession of hemp. Additionally, hemp which is intended for human or animal use is subject to regulation by the Food and Drug Administration (FDA).

⁷ 21 U.S.C. § 802(16)(B): “The term “marihuana” does not include— (i) hemp, as defined in section 1639o of title 7.”

⁸ 7 U.S.C. § 1639o(1)

⁹ Samir A. Ross, Zlatko Mehmedic, Timothy P. Murphy, Mahmoud A. ElSohly, GC-MS Analysis of the Total Δ ⁹-THC Content of Both Drug- and Fiber-Type Cannabis Seeds, *Journal of Analytical Toxicology*, Volume 24, Issue 8, November-December 2000, Pages 715–717, <https://doi.org/10.1093/jat/24.8.715>

¹⁰ Id. See also, Yang Y, Lewis MM, Bello AM, Wasilewski E, Clarke HA, Kotra LP. Cannabis sativa (Hemp) Seeds, Δ ⁹-Tetrahydrocannabinol, and Potential Overdose. *Cannabis Cannabinoid Res.* 2017;2(1):274-281. Published 2017 Oct 1. doi:10.1089/can.2017.0040, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5665515/>

cannabis seeds will remove most of the Δ9-THC from them. Notably, a cannabis seed's *potential* to grow a marijuana plant is irrelevant to its legal status, which is solely determined by the seed's *actual* Δ9-THC concentration.

THE DEA HAS STATED THAT CANNABIS SEEDS ARE NOT CONTROLLED SUBSTANCES

The DEA's position on cannabis seeds containing Δ9-THC within the Legal Limit is that they are not controlled substances. In response to a question regarding the legal status of cannabis seeds, the DEA issued a letter on January 6, 2022 stating that “[M]arihuana¹¹ seed that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of ‘hemp’ and thus is not controlled under the CSA.”¹²

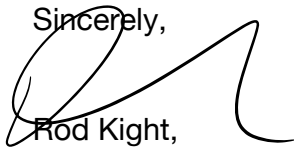
IT IS LAWFUL TO TRANSPORT CANNABIS SEEDS IN INTERSTATE COMMERCE

The interstate transfer of hemp, which includes cannabis seeds for the reasons discussed above, is authorized by 7 USC § 1621 subsection 10114(b), which states in relevant part: “No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 (AMA) (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.”¹³ Although state laws vary with respect to hemp and hemp products, it is clear that states and Indian tribes may not prohibit the transport of them through their borders.

CONCLUSION

Based on the 2018 Farm Bill, the CSA, and the DEA's position as set forth in a recent letter, cannabis seeds that do not contain Δ9-THC concentrations in excess of 0.3% are lawful. Specifically, they are not controlled substances under federal law. They may be possessed, sold, distributed, and transported in interstate commerce subject to any applicable laws and regulations of the various states.

Sincerely,



Rod Kight,
Attorney

¹¹ Note that the DEA uses the antiquated, though statutorily accurate, term “marihuana” rather than “marijuana” or “cannabis” in this context. See FN 4, above.

¹² See FN 3, above.

¹³ <https://uscode.house.gov/statviewer.htm?volume=132&page=4914#>