

TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE

Calendar Year 2024 Report On Joint Enforcement of Hemp, Kratom & Related Products West Virginia Department of Revenue: State Tax Division & Alcohol Beverage Control Administration and the West Virginia Department of Agriculture

Overview:

This is the report from the West Virginia Tax Division (Tax) Commissioner, the West Virginia Alcohol Beverage Control Administration (WVABCA) Commissioner and the West Virginia Agriculture Commissioner to the Joint Committee on Government and Finance related to the joint enforcement efforts of the Tax, WVABCA and the West Virginia Department of Agriculture regarding hemp, kratom and related products. These joint enforcement efforts were mandated by Senate Bill 679 in the 2024 Regular Session.

During the 2024 Regular Session of the State Legislature, Senate Bill 679 was passed and Joint Enforcement for Hemp, Kratom and Related Products was placed under the joint enforcement purview of these three agencies. The Legislature found that select plant-based derivatives, more commonly referred to as hemp, kratom and related products, can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The three agencies work together on joint enforcement efforts at a retail level to ensure strict compliance with the provisions of SB 679, as well as other statutes under the purview of each agency. A large factor of the legislation was to ensure that sales to those under the age of 21 was prohibited and to ensure that retail establishments were strictly adhering to these provisions of the law, as well as others. Accordingly, the Tax Commissioner, WVABCA Commissioner and the Agriculture Commissioner entered into a cooperative working relationship as outlined by Senate Bill 679 and their staff has been actively working under the provisions of this law to assist each other in the enforcement of this law, assisting each other with training and cooperating with State and local law enforcement, and conferring with one another and law enforcement about the enforcement of this section on a monthly basis.

Staff from each of the three agencies communicate and coordinate at least every two to three weeks. They have worked together to develop training for their internal staff as well as training for law enforcement and prosecutors. They stand ready to present said training to any law enforcement or prosecutor in the state to aid in the enforcement of West Virginia Law.

I. Collaboration and Training

Collaboration began in earnest before the end of the 2024 regular session with meetings among the agencies. Meetings between the three Commissioners and their designated leadership staff took place on March 25, 2024, at the offices of the Commissioner of Agriculture.

A few short leadership and planning meetings took place following March 25, 2024, and culminated in joint training for all WVABCA Agents, Tax Division Investigators and Revenue Agents, and Agriculture Regulatory Inspectors. These trainings were held on April 11, 2024, and May 6, 2024.

All three agencies also held joint training in Greenbrier County on July 30 and August 1, 2024, with Law Enforcement Personnel from the Greenbrier County Sheriff's Department, local agencies from Greenbrier County and the Greenbrier County Prosecutor's Office. All agencies have also met with members of the West Virginia State Police BCI and recently began communicating and collaborating with the United States Homeland Security Investigations.

II. Joint Enforcement Operations – Underage Hemp Buys

Joint Enforcement operations from all three agencies have taken place across the state on multiple dates. This enforcement work sees a WVABCA undercover agent visit the retail locations with an undercover buyer who is under the age of 21. At these visits the buyer attempts to purchase a restricted hemp derived product containing legal amounts of THC, and the undercover agent purchases a drug paraphernalia product which is also restricted for sale and requires logging and reporting under other sections of code. The law currently requires a law enforcement officer from the city, county or state to file criminal charges for the underage hemp purchase. Tax Division Investigators file the criminal charges for the drug paraphernalia purchases that violate the law. WVABCA agents forward the hemp administrative citations to the West Virginia Department of Agriculture.

During the 2024 calendar year, joint enforcement operations took place in the following counties on the following dates, with the results of the operations listed, along with a notation if there was a cooperating law enforcement agency for the specific operation:

4/24/2024 – Wood County – 15 retail locations visited, 2 Hemp buys, 0 Drug Paraphernalia buys.

5/1/2024 – Kanawha County – 60 retail locations visited, 15 Hemp buys, 3 Drug Paraphernalia buys.

6/26/2024 – Logan County – 10 retail locations visited, 2 Hemp buys, 0 Drug Paraphernalia buys. Assistance by Logan County Sheriff's Department and West Virginia State Police.

7/18/2024 – Kanawha County – 9 retail locations visited, 0 Hemp buys, 6 Paraphernalia buys.

7/30/2024 – Greenbrier County – 7 retail locations visited, 4 Hemp buys, 3 Drug Paraphernalia buys. Assistance by Greenbrier County Sheriff's Department and West Virginia State Police.

8/28/2024 – Putnam County – 9 retail locations visited, 3 Hemp buys, 6 Drug Paraphernalia buys. Assistance by the West Virginia State Police and Eleanor Police Department.

9/10/2024 & 9/11/2024 – Berkeley & Jefferson County – 18 retail locations visited, 8 Hemp Buys, 15 Drug Paraphernalia Buys. Assistance by Ranson Police Department.

10/28/2024 – Harrison County – 11 retail locations visited, 6 Hemp buys, 9 Drug Paraphernalia buys.

12/9/2024 – Fayette County – 1 retail location visited, 0 Hemp buy, 0 Drug Paraphernalia buys.

2024 total number of retail locations visited for undercover joint operations 140.

Underage Hemp Buys	Total: 40	Buy Rate: 28.5%
Drug Paraphernalia Buys	Total: 42	Buy Rate: 30%

The West Virginia Department of Agriculture sends reports from each of these operational details to the Prosecuting Attorney for each county. Upon completion the reports were sent to the respective counties prosecuting attorney's offices by the West Virginia Department of Agriculture.

Sales of drug paraphernalia in violation of the West Virginia Code were pursued directly by the State Tax Division, Criminal Investigation Division. Investigators for the Tax Division received 45 referrals from the joint operations in 2024. Of those 45 referrals, cases against 40 stores were pursued and cases against 5 stores were not pursued by the Tax Division. Charges stemming from operations at 46 retail locations resulted in a total of 76 misdemeanor counts being charged in various Magistrate Courts. 66 counts for violation of 47-19-4, 8 counts for violation of 47-19-2, and 2 counts for violation of 47-19-1, all dealing with the sale of drug paraphernalia products in these retail locations without collecting photo ID and properly logging the sale to ensure the products are not sold to minors under the age of 21. WVABCA Agents included purchases of drug paraphernalia as part of their undercover operations to assist the Tax Division.

All charges and counts are currently pending in their respective Magistrate Courts. To date, 7 of the cases have been resolved with guilty pleas and paying of the court ordered fines.

The West Virginia Department of Agriculture has seized illegal products with the assistance of both Tax Division Investigators and WVABCA Agents at multiple locations during these joint enforcement operations. As a result of these underage compliance checks the West Virginia Department of Agriculture seized a total of 569 illegal products.

On a side note, during joint enforcement operations in Greenbrier County, the Tax Division and Department of Agriculture gave assistance to the WVABCA in the largest seizure of beer in recent memory by an operator who was selling alcohol to minors under the age of 18, the Department of Agriculture took into their possession several boxes of illegal products, and the Tax Division seized untaxed contraband tobacco and vape products from a single retail location.

The Department of Agriculture joined with the Tax Division in an operation in Cabell County in which Tax Investigators seized untaxed contraband tobacco and vape products and Agriculture took illegal products into their possession. Additionally, Tax Division Investigators assisted the Department of Agriculture in the inspection of distribution facilities in Kanawha and Monongalia Counties.

The Joint Enforcement operations between the three agencies are working and the leadership between the three agencies are working well together to accomplish mutual goals outlined in Senate Bill 679.

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