

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI  
19TH JUDICIAL CIRCUIT

MO HEMP TRADE ASSOCIATION, )

Plaintiff, )

v. )

MISSOURI DEPARTMENT OF )  
HEALTH AND SENIOR SERVICES, )

Defendant. )

Case No. 24AC-CC07631

**VERIFIED MOTION FOR TEMPORARY RESTRAINING ORDER**

Plaintiff MO Hemp Trade Association (“Plaintiff” or “MO Hemp”) moves this Court to enter an Order temporarily restraining Defendant Missouri Department of Health and Senior Services (“DHSS”) from implementing Executive Order 24-10, which is not legally enforceable, to preserve the status quo until such time as a hearing on Plaintiff’s request for a preliminary injunction may be held. *See* Rule 92.02(a); 92.02(c)(2). Executive Order 24-10 directs DHSS to designate foods adulterated simply because they contain hemp products, in direct contravention of Missouri law, and to take the steps necessary to embargo and condemn such foods. When a food is not adulterated, DHSS has no legal authority to embargo it. In support of its Motion, Plaintiff states as follows:

**BACKGROUND & STATEMENT OF FACTS**

**I. About MO Hemp**

1. The MO Hemp Trade Association is a non-profit organization established under Missouri law.

2. Plaintiff's members include those who manufacture, sell, and/or distribute hemp products in the state of Missouri.

3. Plaintiff's members have manufactured, sold, and/or distributed hemp products, including foods containing hemp products, in the state of Missouri since late 2018.

4. Plaintiff's members rely on their reputation and relationships in the state to maintain a strong customer base.

5. Plaintiff has received reports that customers are losing confidence in its members' products because of uncertainty surrounding whether it is legal to sell foods containing hemp products.

## II. Governor Parson's Executive Order 24-10

6. On August 1, 2024, Governor Parson issued Executive Order 24-10 ("EO 24-10"). **Exhibit 1**, which is incorporated as if fully set forth herein.

7. EO 24-10 states: "[T]here are currently no safety standards, packaging requirements, or other regulations related to the safety of consuming unregulated psychoactive cannabis products in Missouri." *Id.*

8. EO 24-10 also states: "Unregulated psychoactive cannabis products include delta-8 tetrahydrocannabinol (THC), delta-10 (THC), hexahydrocannabinol (HHC), tetrahydrocannabinol (THC-O), tetrahydrocannabiphoral (THCP), tetrahydrocannabivarin (THCV), and other similar products" (hereinafter referred to as the "Unregulated Psychoactive Cannabis Products"). *Id.*

9. EO 24-10 directs DHSS, beginning September 1, 2024, “to find foods that contain [U]nregulated [P]sychoactive [C]annabis [P]roducts are deleterious, poisonous, and adulterated under Sections 196.070, RSMo, and 196.085, RSMo, and to take the necessary steps in accordance with statute and regulation to embargo and condemn any food containing [U]nregulated [P]sychoactive [C]annabis [P]roducts.” *Id.*

### III. About Hemp Products

10. Marijuana and hemp are varieties of the same plant species, *Cannabis sativa L.*

11. Both federal and Missouri law exclude hemp from the definition of marijuana. *See* § 195.010(28), RSMo; 21 U.S.C. § 802(16).

12. The Unregulated Psychoactive Cannabis Products listed in Executive Order 24-10 are derived from the hemp plant, not the marijuana plant.

13. The Unregulated Psychoactive Cannabis Products are “industrial hemp” because they do not contain an average delta-9 THC concentration exceeding three-tenths of one percent on a dry weight basis. *See* § 195.010.1(24)(a), RSMo.

14. Under Missouri law, “[a] food shall not be considered adulterated solely for containing industrial hemp, or an industrial hemp commodity or product.” § 196.070.2, RSMo.

### IV. DHSS’ Implementation of Executive Order 24-10

15. On August 29, 2024, members of MO Hemp received an email from DHSS’s Communications Director, Lisa Cox, attaching a “Memo for Missouri Food

Retailers and Wholesalers” regarding “Executive Order 24-10 Implementation.” **Exhibit 2**, which is incorporated as if fully set forth herein.<sup>1</sup>

16. Lisa Cox’s August 29, 2024, e-mail states: “Governor Parson’s Executive Order 24-10 goes into effect this weekend, which prohibits foods containing [Unregulated] [P]sychoactive [C]annabis [P]roducts from being manufactured, sold or distributed in the State of Missouri unless originating from an ‘approved food source.’” *Id.*

17. Starting September 3, 2024, Plaintiff received reports from several members that DHSS staff were inspecting facilities for compliance with EO 24-10. **Exhibits 3-8**, all of which are incorporated as if fully set forth herein.

18. The reports entitled “Sanitation Observation” state that DHSS inspected the facilities to confirm compliance with Executive Order 24-10. **Exhibits 3, 4, 7, 8**.

19. On September 10, 2024, Governor Parson and Attorney General Andrew Bailey issued a press release about “new actions to combat [the] spread of dangerous unregulated cannabis products.” **Exhibit 9**, which is incorporated as if fully set forth herein.

20. The press release acknowledges the Missouri Division of Alcohol and Tobacco Control (“ATC”) tried to issue emergency rules, but they were rejected by the Secretary of State. *Id.*<sup>2</sup> The emergency rules would have prohibited retailers holding

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<sup>1</sup> DHSS has since withdrawn this memo.

<sup>2</sup> ATC subsequently re-submitted emergency rules, but those were also rejected by Secretary Ashcroft.

liquor licenses from selling, delivering, holding or offering for sale any food that has been embargoed by DHSS. **Exhibit 10**, which is incorporated as if fully set forth herein.

21. At a press conference held on September 10, 2024, Governor Parson was quoted as saying: “Together, with the help of the Attorney General and his team, we will root out these cannabis products being deceptively marketed to our children until such time as the General Assembly provides the statutory framework for commonsense regulations.” *Id.*

22. The press release states that “DHSS will continue to embargo unregulated, psychoactive cannabis food products being sold, manufactured, or delivered in Missouri that do not originate from an ‘approved food source’ according to state and federal law.” *Id.*

#### V. Harm to Members of MO Hemp

23. The Governor’s press release states that, “[s]ince September 1, DHSS has visited 64 facilities, finding 39 with [U]nregulated [P]sychoactive [C]annabis [P]roducts present on shelves. Thus far, 8,929 products have been embargoed through these enforcement efforts.” **Exhibit 9**. DHSS has inspected some of Plaintiff’s members’ facilities, including a warehouse facility, and embargoed some of their products.

24. Members have reported to Plaintiff they have been instructed by DHSS to stop selling foods containing Unregulated Psychoactive Cannabis Products pursuant to EO 24-10. **Exhibit 7**.

25. Members have reported to Plaintiff that their foods containing Unregulated Psychoactive Cannabis Products have been embargoed by DHSS. **Exhibit 4-6**.

26. Members have reported to Plaintiff that they voluntarily agreed to stop selling foods containing Unregulated Psychoactive Cannabis Products because of DHSS's enforcement of EO 24-10. **Exhibit 7**.

27. A member has reported to Plaintiff that they are worried they will be forced out of business if DHSS continues to enforce EO 24-10. **Exhibit 11**, which is incorporated as if fully set forth herein.

28. Members have reported to Plaintiff that DHSS instructed them to destroy foods containing Unregulated Psychoactive Cannabis Products because it is mandated by EO-24.

29. Members of Plaintiff that are wholesalers and distributors have reported to Plaintiff they are unable to sell or transport products containing Unregulated Psychoactive Cannabis Products because retailers are afraid of DHSS enforcement.

30. Before September 1, 2024, no one, including DHSS and ATC, ever inspected Plaintiff's members' facilities to look for Unregulated Psychoactive Cannabis Products.

## **VI. Harm to the Public**

31. On September 11, 2024, DHSS inspected Veterans of Foreign Wars Post 2661 ("VFW Post 2661") in Washington, MO to ensure the facility's canteen is in compliance with EO-24. **Affidavit of Commander Jason Stanfield**, which is incorporated as if fully set forth herein.

32. The "Sanitation Observation" report issued to VFW Post 2661 after the inspection states that DHSS surveyed "the facility for the presence of [U]nregulated

[P]sychoactive [C]annabis [P]roducts and compliance with Executive Order 24-10.”

**Exhibit 12**, which is incorporated as if fully set forth herein. The Sanitation Observation report states that DHSS observed “beverage products containing [U]nregulated [P]sychoactive [C]annabis . . . at [the] establishment” and that the sale of “[U]nregulated [P]sychoactive [C]annabis beverage products in this establishment is a violation of Executive Order 24-10.”

**BASIS FOR RELIEF**

33. As more fully explained in Plaintiff’s suggestions in support of this motion, filed concurrently herewith, a temporary restraining order to preserve the status quo is warranted. Otherwise, Defendant will continue to unlawfully implement EO 24-10 and embargo foods manufactured, sold, or distributed by Plaintiff’s members solely because they contain lawful hemp products. Plaintiff’s members will suffer immediate and irreparable harm if DHSS is allowed to continue to implement EO 24-10 in contravention of Missouri law, and the harm done to Plaintiff’s members cannot be remedied by money damages alone. More specifically, monetary damages will not stop DHSS from improperly relying on EO-24 as if it is law and wrongfully designating foods adulterated because they contain hemp products.

WHEREFORE, for the reasons set forth herein and within Plaintiff’s suggestions in support, Plaintiff requests the Court issue its Order temporarily restraining Defendant and any person acting on behalf of or in concert with Defendant from (1) implementing Executive Order 24-10, (2) designating foods containing hemp products as adulterated; (3) suggesting retail stores destroy hemp products; (4) embargoing products simply

because they contain hemp, and (5) for such further relief as the Court deems just. Notice of this motion for temporary restraining order is being served on Defendant concurrent to its filing with the Court. Rule 92.02(a).

Dated: September 16, 2024

Respectfully submitted,

**STINSON LLP**

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**ATTORNEYS FOR PLAINTIFF**



**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was filed via the Court's electronic filing system on the 16th day of September, 2024, which thereafter served a copy on all counsel of record.

/s/ Charles W. Hatfield

**ATTORNEY FOR PLAINTIFF**



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**VERIFICATION**

STATE OF MISSOURI )  
COUNTY OF Reynolds ) SS.

I, Brooklyn Hill, being first duly sworn, state that I have personal knowledge of the statements and facts in the above Verified Motion for Temporary Restraining Order and that such statements and facts are true and accurate to the best of my knowledge and belief.

*Brooklyn Hill*  
\_\_\_\_\_  
Brooklyn Hill  
President, MO Hemp Trade Association

Subscribed and sworn to before me this 16 day of September, 2024.

*Mackenzie Summers*  
\_\_\_\_\_  
Notary Public

My Commission Expires: April 19th, 2026

MACKENZIE MAE SUMMERS  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Shannon County  
My Commission Expires: April 19, 2026  
Commission Number: 22771592

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