



January 17, 2018

The Honorable Jeff Sessions  
Attorney General of the United States  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

RE: Sale of Inputs to Cannabis Production Where Legalized by a State

Dear Attorney General Sessions:

On behalf of the Agricultural Retailers Association (ARA), I am writing to obtain additional guidance regarding the potential federal prosecution of agribusinesses that may provide products and agronomic services to state-approved businesses that cultivate and sell medical or recreational marijuana or industrial hemp. The Marijuana Enforcement Memorandum you issued on January 4, 2018 creates the potential for greater legal uncertainty for ARA members given the growing conflict between federal and state laws. The formal rescission of the “Cole Memorandum”, which outlined a set of priorities for federal prosecutors and recommended a focus on cases involving violence, distribution to minors, drugged driving, or large-scale drug trafficking, has caused concern as it increases legal uncertainty.

Under the Controlled Substances Act of 1970, cannabis (marijuana and industrial hemp) are regulated under Schedule I. According to the U.S. Drug Enforcement Administration (DEA), Schedule I drugs, substances, or chemicals are defined as drugs with no currently-accepted medical use and a high potential for abuse. As you know, more than half of the States have at least decriminalized the recreational use of marijuana, while eight have fully legalized it. Most of the States have legalized the use of medical marijuana. Since 2014, Congress has prohibited the U.S. Department of Justice (DOJ) from spending funds to interfere with states implementing their own laws on medicinal use. This provision has been included in the DOJ’s annual appropriations bill. In addition, Section 7606 of the Agricultural Act of 2014 authorizes institutions of higher education (e.g., universities) and state Departments of Agriculture to grow and cultivate ‘industrial hemp’ (defined under the Act as marijuana with a THC content of 0.3 percent or less) for agricultural research purposes where permitted under state law.

ARA’s agricultural retail members provide goods and services to farmers and ranchers which include: fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets. ARA members are trusted resources to its customers concerning products and techniques needed to produce crops, which also helps to preserve and protect the crops, the soil and the environment.

ARA would like assurances that agricultural retailers and other agribusiness that receive payment for products and services provided to state-approved cannabis-based businesses, whether knowingly or not, can do so without the fear of federal prosecution. We believe it is in the best interest of DOJ to work with Congress on a short-term legislative fix while a long-term solution can be developed regarding federal cannabis policy. Thank you for your review and consideration of this important issue.

Sincerely,



Richard D. Gupton  
Senior Vice President, Public Policy & Counsel

cc: Beth A. Williams, Assistant Attorney General, DOJ Office of Legal Policy  
Stephen E. Boyd, Assistant Attorney General, DOJ Office of Legislative Affairs  
National Association of Assistant United States Attorneys  
National Governors Association  
National Association of Attorneys General