

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

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CLIMBING KITES, LLC and FIELD DAY )	Case No. 4:24-cv-00202
BREWING COMPANY, LLC, )	
)	
Plaintiffs, )	
)	
v. )	
)	
THE STATE OF IOWA; KELLY GARCIA, )	<b>DECLARATION OF DAN CARAHER</b>
in her official capacity as Director of the )	<b>IN SUPPORT OF RENEWED MOTION</b>
Iowa Department of Health and Human )	<b>FOR PRELIMINARY INJUNCTION</b>
Services; and IOWA DEPARTMENT OF )	
HEALTH AND HUMAN SERVICES, )	
)	
Defendants. )	

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I, Dan Caraher, pursuant to 28 U.S.C. § 1746(2), declare under penalty of perjury, the following:

1. I am over the age of 21 and have personal knowledge of several items set forth below. To the extent I have no personal knowledge of such items, I have consulted with employees and colleagues of Field Day Brewing Company, LLC (“Field Day Brewing”), and my knowledge is based on my investigation. I am acting in a representative capacity for Field Day Brewing, and I am competent to testify about the matters set forth herein.

2. I am the Director of Operations for Field Day Brewing. Field Day Brewing was formed in 2023 and is headquartered in North Liberty, Iowa.

3. Iowa law requires any business that manufactures or sells a consumable hemp product at retail to register with the Department of Health and Human Services (“DHHS”) in advance of the manufacture or sale of that product. Field Day Brewing has maintained its hemp registration through DHHS throughout its existence.

4. Hemp manufacturers must submit product information to DHHS through an online portal. Once DHHS reviews product information and determines the product complies with Iowa law, DHHS “approves” the product using its online portal and the manufacturer can begin selling the approved product. DHHS maintains an “approved product list” for all hemp manufacturers, which includes all products DHHS has previously approved. There is no renewal process for approved products. Approved products maintain their approved status so long as the manufacturer maintains their hemp manufacturing license.

5. For purposes of consumable hemp beverages, DHHS requires a manufacturer or seller to specify within the portal the total amount of cannabinoids per serving. “Cannabinoids,” in this context, refers to the amount of hemp-derived THC and CBD within the product. DHHS also requires a total amount of cannabinoids per container to be entered in the portal.

6. Because Field Day Brewing only manufactures and/or sells 12-ounce beverages, the number of “servings” of total THC in DHHS-approved products can be deduced from the amount of THC-per-container divided by the amount of THC-per-serving:

7. For example, as of July 2024, DHHS had approved each of the following products for manufacture and/or sale by Field Day Brewing:

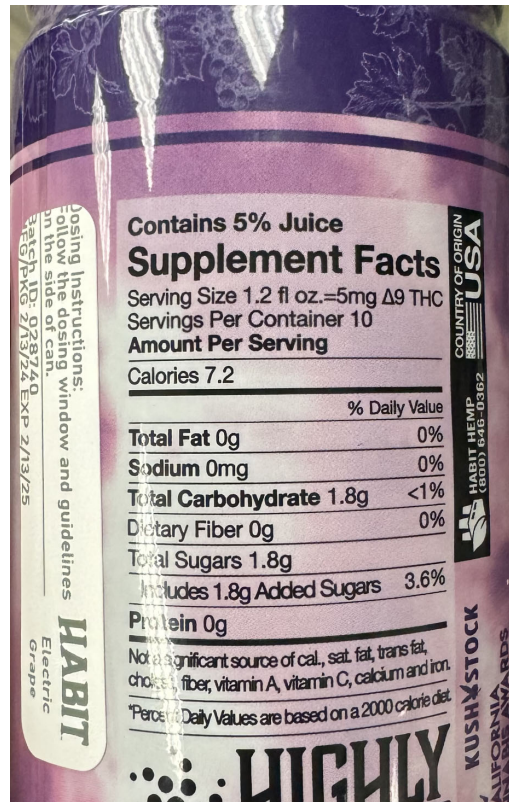
- Product 1 (SKUSC88A0), which contained 4 mg hemp-derived THC serving, 8 mg cannabinoids per container, resulting in 2 “servings” of hemp-derived THC (8 mg total) in a can.
- Product 2 (SKUSC1010A0), which contained 4 mg hemp-derived THC serving, 10 mg cannabinoids per container, resulting in 2.5 “servings” of hemp-derived THC (10 mg total) in a can.<sup>1</sup>
- Product 3 (SKURH22A0-001), which contained 2 mg hemp-derived THC serving, 2 mg cannabinoids per container, resulting in 1 “serving” of hemp-derived THC (2 mg total) in a can.

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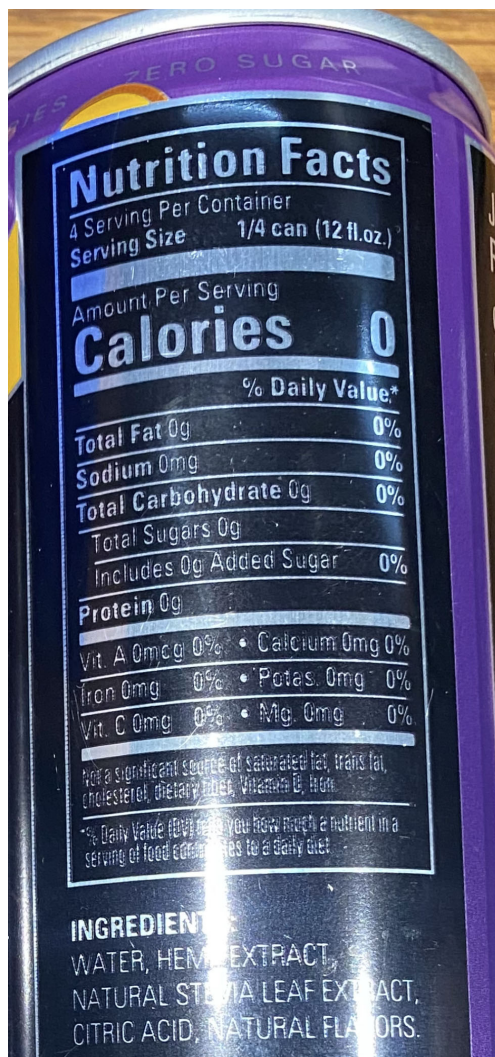
<sup>1</sup> This can complies with Iowa’s potency-limit statute as enacted in HF2605.

8. It is my understanding that in the above-captioned litigation, DHHS has argued that 12 fluid ounces is the only reasonable “serving size” for beverages that contain hemp-derived THC. The approval of Field Day Brewing’s products indicates otherwise.

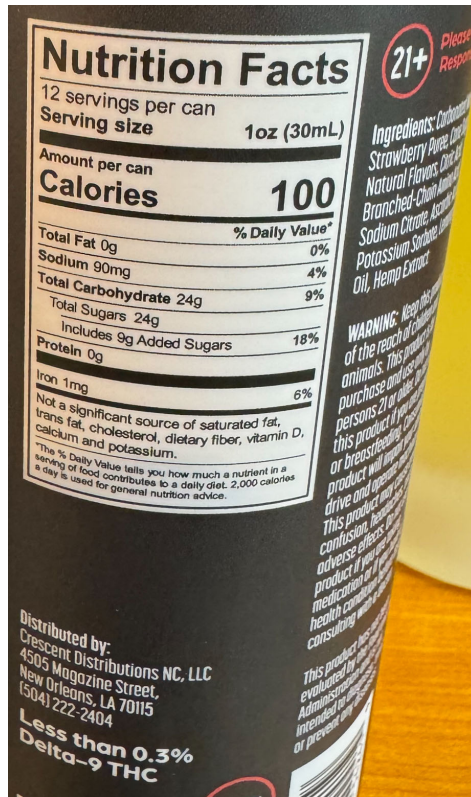
9. It is my understanding DHHS has also approved the following products for manufacture and/or sale within the State of Iowa, as displayed by the product’s nutrition information:



This product indicates there are ten “servings” of total THC in a 12-ounce can.



This product indicates there are four “servings” of total THC in a 12-ounce can.



This product indicates there are twelve “servings” of total THC in a 12-ounce can.

10. It does not appear 12 fluid ounces is the “serving size” for beverages that contain hemp-derived THC, as demonstrated by products approved by DHHS for manufacture and/or sale by Climbing Kites or other market participants.

11. It is my understanding that in the above-captioned litigation, DHHS has argued that any enforcement of HF2605’s potency limits are not currently, and will not be, enforced until its administrative rules are in effect.

12. Based on understanding and belief, since July 1, retailers of consumable hemp beverages have been asked by individuals entering stores whether the retailer has any Field Day Brewing cans containing 10mg total THC—which were a previously approved DHHS product. Based on the training and experience of those retailers, it is my understanding the retailers believed the individuals to be law enforcement, conduct what essentially amounts to a “sting” operation.

The clear impression of these visits was that Field Day Brewing's products containing 10mg total THC, which previously were approved by DHHS, are now illegal as of July 1.

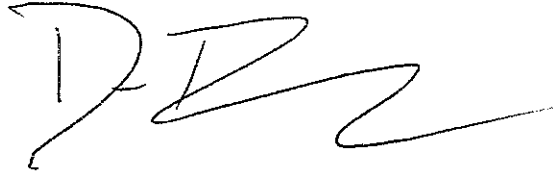
13. Sometime between July 1 and July 7, DHHS removed all previously approved consumable hemp beverages manufactured and/or sold by Field Day Brewing from Field Day Brewing's Approved Product List, including those containing 2.5 milligrams of hemp-derived THC. As of today, Field Day Brewing has no approved products on its Approved Products List. Field Day Brewing was provided no notice or explanation of DHHS's decision.

14. As a result of DHHS's removal of all previously approved consumable hemp beverages from its online portal, retailers have raised significant concerns to Field Day Brewing whether the retailer could sell *any* Field Day Brewing products, including those now-unapproved products.

15. Thus, after HF2605 was enacted and before DHHS finalized any purported administrative rules, Field Day Brewing continues to suffer harm and significant market confusion regarding the manufacture and/or sale of consumable hemp beverages.

[SIGNATURE ON NEXT PAGE]

Dan Caraher

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of connected, fluid strokes that suggest the letters 'C', 'A', 'R', 'A', 'H', 'E', 'R'.