

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

HW PREMIUM CBD, LLC,  
AJ's HEALTH AND WELLNESS d/b/a  
AMERICAN SHAMAN, E. KRIEGER  
LAND, LLC d/b/a GREENE GOODS  
MARKET & GREENHOUSES, GREEN  
ONYX INC. d/b/a YOUR CBD STORE,  
BEYOND CBD, LLC dba BEYOND CBD,  
CAMPBELL'S NUTRITION CENTERS,  
INC., TCI ENTERPRISE, INC. d/b/a SKY  
HIGH, ICANNA, LLC, YOUR CBD STORES  
FRANCHISING, LLC,

Case No. 4:24-cv-00210-SHL-HCA

Plaintiffs,

v.

GOVERNOR KIM REYNOLDS in her official  
capacity, DIRECTOR OF IOWA  
DEPARTMENT OF HEALTH AND HUMAN  
SERVICES KELLY GARCIA in her official capacity,  
COMMISSIONER OF IOWA DEPARTMENT  
OF PUBLIC SAFETY STEPHAN BAYES in his  
official capacity, and IOWA SECRETARY OF  
AGRICULTURE MIKE NAIG in his official capacity,

Defendants.

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**DECLARATION OF COREY COLEMAN**

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I, Corey Coleman, do hereby attest as follows:

1. I am over the age of majority, am competent to testify, and I have personal knowledge of the matters addressed in this declaration.

2. This Declaration is submitted in support of Plaintiffs' Reply in Support of Plaintiffs' Motion for Preliminary Injunction.

3. I am the owner and operator of TCI Enterprises, Inc. d/b/a Sky High, which sells products that Iowa has defined as “consumable hemp products.”

4. Sky High was established on February 2, 2021, and was the first licensed company marketing THC products within Iowa and registered with Iowa’s consumable hemp program.

5. Sky High is registered with the Iowa Department of Health and Human Services (“DHHS”) as a Retail Consumable Hemp Facility and a Manufacturing Consumable Hemp Facility, and the consumable hemp products previously sold at Sky High and manufactured by Sky High were approved by DHHS.

6. Sky High employs four commissioned salespeople who will need to find other employment due to new regulations.

7. Sky High manufactures consumable hemp products in Bloomer, Wisconsin. Approximately 98 percent of Sky High’s sales took place in Iowa, but Sky High does sell some products to out-of-state consumers.

8. Sky High products include THC-infused drinks and full spectrum THC edible gummies that are manufactured using all natural ingredients and only natural THC that is hemp derived from the hemp plant itself at legal limits set by the federal government in 2018.

9. Although Sky High sells its own product online, it is primarily focused on wholesale sales to other distributors throughout Iowa. Currently, Sky High sells to approximately 200 vendors throughout Iowa.

10. Sky High does not sell products to individuals under the age of 21 as a business policy. On Sky High’s website, we note specifically “WARNING: KEEP OUT OF REACH OF CHILDREN AND PETS. Do not use if pregnant, nursing, or under 21 or legal age of consumption. Consult a physician before using this product.”

11. In 2023, Sky High's gross income was \$279,000. Between 2022 and 2023 its income grew by 299%.

12. The Hemp Amendments<sup>1</sup> were signed into law by Governor Reynolds on May 17, 2024 and are currently being enforced.

13. Since July 1, 2024, it is my understanding that our products are illegal in Iowa due to the new serving and container size requirements contained in H.F. 2605. The new requirements state that consumable hemp products must have a "maximum total tetrahydrocannabinol ("THC") concentration [] less than or equal to the lesser of the following: (a) three-tenths of one percent on a dry weight basis; (b) four milligrams per serving and ten milligrams per container on a dry weight basis."

14. All of Sky High's gummies contain 10 milligrams of THC per serving, so Sky High believes it is prohibited from manufacturing, producing, distributing, marketing, or selling all of those consumable hemp products in Iowa based on the current guidance from DHHS in its draft regulations. Further, it is my understanding that there are no final definitions for "serving size" and "container" as used in the Hemp Amendments and I do not know if my other products comply with those provisions either.

15. However, Sky High does manufacture and sell some drink and tincture products (for example, 4mg Lemon Lime Water 12oz and 4mg Regular Skyology Tincture) that potentially meet the guidelines and definitions provided by DHHS so far, but when I inquired to DHHS regarding whether these products could be sold, DHHS has refused to answer my questions regarding these products and other topics because of the ongoing litigation. A copy of my email exchange with DHHS is attached as Exhibit 1 to this declaration.

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<sup>1</sup> Defined terms in this Declaration are utilizing the definition set forth in the Complaint for Declaratory and Injunctive Relief filed in this proceeding.

16. Further, it is my understanding that DHHS has thirty (30) days to approve new product submissions, but DHHS has also refused to respond to my questions regarding that process and how it will be handled when the regulations have not been promulgated because of the pending litigation. *See* Exhibit 1.

17. Based on the guidance issued by DHHS and the Amendments, it is my understanding that selling noncompliant consumable hemp products may result in civil and criminal penalties. It is also my understanding that possession, manufacturing, and distribution of noncompliant consumable hemp products is a criminal offense.

18. In addition to lost revenue, Sky High will either have to expend additional resources on transport, storage, and sale outside of Iowa from its Wisconsin facility or lose significant amount of money already spent on manufacturing of previously compliant products. Specifically, Sky High has had to implement new operating procedures to transport goods to states that do not require Sky High to enter through the State of Iowa.

19. It is my understanding that even transporting Sky High products, that are legal under federal law, through the State of Iowa.

20. Further, it is my understanding that the mere possession and transport of non-compliant products within Iowa to other states is criminally prohibited.

21. DHHS's suggestion to "contact the vendor" to return our existing product prior to July 1 to recoup our money spent for such products was impossible for me, as Sky High is the manufacturer of all of our product line. Several wholesale account customers have not placed orders with Sky High for the three months preceding the enforcement of the Hemp Amendments because no one wanted to get stuck with inventory they could not sell.

22. From what inventory Sky High was able to collect back from some customers, it has caused a loss to our business as we have a lot of inventory that can no longer be sold in Iowa. Specifically, Sky High is operating at a loss of \$15,000.00 this year due to the changes to Iowa's hemp laws.

23. Further, As of July 1, Sky High has produced approximately 53,100 products that will need to be destroyed, sold elsewhere, or repackaged. Destruction will result in lost costs of approximately \$66,000, which does not include the lost profits stemming from these products that we currently have in existing inventory. Transportation, storage, and sale of products out of state will cost approximately \$2,000-\$2,200 per month to ensure that the products do not enter Iowa following their manufacture in Wisconsin.

24. Altering manufacturing requirements will result in significantly increased costs. Under current regulations, it costs approximately \$2.88 for each package. With the new regulations, the cost will increase to \$4.95 for each package. Passing along this expense to customers increases the price of product by 172%.

25. Additionally, even if we were able to manufacture new products to meet the serving and container concentration requirements before the July 1 effective date, it is my understanding that our products would still be prohibited under the Amendments because the Amendments require a warning label on every product sold. However, the Amendments do not specify what language must be in the warning, and no final rule has been issued despite the law being in effect as of July 1, 2024. As a result, we have no certainty with *how* to comply with the law as it stands.

26. While we may be able to continue manufacturing our products in Wisconsin, the Amendments render our retail business in Iowa worthless because 98 percent of our sales are in the State of Iowa.

27. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of July 2024.

DocuSigned by:  
*Corey Coleman*  
28-A10749-B14-0  
Corey Coleman

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**From:** Burkhiser, Kayla [HHS] <kburkhi@dhs.state.ia.us>  
**Sent:** Wednesday, July 3, 2024 1:50 PM  
**To:** skyhighd9@gmail.com  
**Cc:** Glenn, Ryann; Barton, Allee; Parker, Owen [HHS]; Barcelo, Bobby [HHS]  
**Subject:** RE: HHS New Regs Questions & Guidance

[EXTERNAL EMAIL]

Hello Corey,

Apologies - I do not see that your attorney was copied on the previous email and I do not have their contact information. I have copied two of your litigation counsel on this email, however.

Thank you for reaching out with questions about the Department's proposed administrative rules. As you are aware, the Department has been the subject of two recent lawsuits--*HW Premium CBD, LLC, et al. v. Governor Kim Reynolds* (Case No. 4:24-cv-00210-SHL-HCA) and *Climbing Kites LLC, et al. v. The State of Iowa* (Case No. 4:24-cv-00202)—both filed in the U.S. District Court for the Southern District of Iowa. Given the ongoing litigation, questions about interpretation of the statute, proposed rules, and their legal impact should be directed to your private legal counsel.

The Department will host a virtual hearing next week to receive public comment on the Department's proposed rules. We encourage you to attend to voice your questions and concerns. The hearing will be held:

- July 8 from 10:00 am to 11:00 am.
  - [http://www.zoomgov.com/webinar/register/WN\\_4we0tvLHQ7m\\_Ap4MV65ExA](http://www.zoomgov.com/webinar/register/WN_4we0tvLHQ7m_Ap4MV65ExA)

Thank you for your engagement on this topic.

Sincerely,  
Kayla

**Kayla Burkhiser Reynolds, J.D.**  
**Legal Director**  
Division of Compliance  
Iowa Department of Health and Human Services  
321 E 12<sup>th</sup> Street, Des Moines, IA 50319  
515-897-9067  
[kburkhi@dhs.state.ia.us](mailto:kburkhi@dhs.state.ia.us)  
[hhs.iowa.gov](http://hhs.iowa.gov)



**From:** SkyHigh D9 Gummies <[skyhighd9@gmail.com](mailto:skyhighd9@gmail.com)>  
**Sent:** Thursday, June 27, 2024 3:42:24 PM  
**To:** Barcelo, Bobby [HHS] <[bobby.barcelo@hhs.iowa.gov](mailto:bobby.barcelo@hhs.iowa.gov)>  
**Subject:** HHS New Regs Questions & Guidance

**CAUTION:** This email originated from outside the Department of Health and Human Services. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Bobby, I have a number of questions we need answered as the deadline for the July 1st prohibition date is only days away at this point. Your timeliness and accuracy on these questions is greatly appreciated as we try to remain in business and have been given very little guidance and there's no clear established rules set forth as of today. I have included our attorney Michael Youngblut as well to help with his understanding of how we are supposed to proceed with our business operations.

1. We have accounts that were unable to sell all of their products and we advised them to call the local enforcement agency for destruction per HHS previous statements. We have heard back that accounts have been told that they only destroy when there are orders to do so. How are these situations to be handled for products that will no longer be compliant with no grace period in place?
2. How will HHS be compensating us for the destroyed product if the Federal court grants the injunction stopping or prohibiting the rules from going into effect?
3. Who will be in charge of compensating our business for products that were unnecessarily destroyed if an injunction is granted since there is no grace period associated with the law and it states non compliant products will not be included in the Iowa CSA and based on the amount of product in possession will determine if it's a misdemeanor offense or a felony offense.
4. Sky High has ten different SKUs ([4mg Lemon Lime Water 12oz](#), [4mg Double Berry Razz Water 12oz](#), [4mg Grape Water 12oz](#), [4mg Grapefruit Cran Sky Cooler 12oz](#), [4mg Peach Moscato Sky Cooler 12oz](#), [4mg Fiji Apple Pear Sky Cooler 12oz](#), [4mg Regular Skyology Tincture](#), [4mg Active Skyology Tincture](#), [4mg Relaxed Skyology Tincture](#), [4mg Focus Skyology Tincture](#)) today 6/26/24 that would meet the new legislation guidelines and definitions provided by HHS thus far. Come 7/1/24 will those same ten product SKUs be active and registered products to continue to sell in Iowa, Yes or No? If No please explain which product or products and why they would not meet the new regulations.
5. What is HHS doing to make sure that there is not a gap in between 7/1/24-7/17/24 when rules will be voted on to keep from inflicting any more financial harm to our business and others that will be impacted by these rules? It seems likely there would be a limbo period. What is being done to prevent that from happening for sales and product registration? We have 10 products that comply.
6. Will we be able to continue sales on July 1, 2024?
7. It states that HHS has up to 30 days to approve product submissions. Without rules being voted on until the 17th of July. Our business is also a licensed mobile food unit and we have signed contracts and fees paid for multiple events in Iowa come July. 30 days in approval time and no rules until the middle of July it seems likely that product approvals and registrations wouldn't meet that time frame? What plans



of action, if any is HHS doing to make sure our business and others won't be hurt by unorganization of timeframes that make it very difficult to operate come July 1, 2024?

Thank you for your time and have a blessed day!

~Corey

The text "SKY HIGH" is rendered in a highly stylized, bubbly font. Each letter is filled with a gradient of colors, transitioning from yellow at the top to pink and purple at the bottom. The letters have a thick, black outline and a slightly irregular, hand-drawn appearance.