

Dear County Attorneys,

In order that Nebraska State Patrol Troopers may continue to work cooperatively with our prosecution partners in enforcing the laws of the State of Nebraska in a fair and consistent manner, please provide responses to the below questions to the extent possible. We are attempting to gather sufficient information such that we can provide the best possible evidence to support successful prosecution of marijuana cases under the new statutory scheme. Your responses, as the chief law enforcement officers in your counties, will allow the command staff to provide direction to all sworn personnel as to their practices on the road.

Please bear in mind that the NSP crime lab is now reporting marijuana as cannabis, as they are unable to differentiate between marijuana and hemp. The lab cannot perform quantitation testing at this time. With the statewide effects of LB657 in question, the Agency needs to ensure Troopers are not effectuating custodial arrests for, or seizing property associated with, offenses you will not prosecute. We realize that this is an evolving landscape that will likely change after receiving direction from the courts, but in the interim, will appreciate an update as to your current practices.

1. Please advise whether your office intends to prosecute CBD related offenses, and under what statute.
2. Please advise whether your office intends to continue to prosecute marijuana infractions, including paraphernalia charges.
3. Please advise whether your office intends to continue to prosecute misdemeanor level marijuana offenses.
4. Please advise whether your office intends to continue to prosecute felony level marijuana offenses.
5. Please advise whether you will prosecute marijuana related offenses without THC quantitation lab results.
 - Please advise whether you prefer/require a delta-9 THC lab result, or a total THC lab result.
 - Please advise whether you will continue prosecuting cases wherein the lab results report the substance/product to be cannabis, not marijuana.
 - Please advise whether you will prosecute marijuana related offenses with an admission but no test result.
 - Will you accept a dispensary label as proof of concentration, without further testing?
6. Please advise whether you prefer felony level marijuana suspects to be booked into jail, or if you want law enforcement to conduct their investigation, seize the evidence, and submit arrest warrant requests so you can determine whether to incur the expense of out of state quantitation testing.
7. Please advise whether you intend to withhold prosecution of certain marijuana related offenses until receiving direction from the courts.
 - If you intend to withhold prosecution pending court determinations, please advise what you would like law enforcement to do with respect to seized property that is not the subject of an investigation or criminal prosecution and has not been confirmed as contraband via testing.
8. If marijuana trained drug detection dogs are found to alert to cannabis, generally, including hemp, and not just marijuana, what is your position on the use of a drug detection dog that alerts and indicates to a legal substance?
9. If the plant materials are labeled as hemp (e.g. hemp cigarettes, hemp buds), what is your intent with respect to documentation requirements and evidence needed to prosecute?

Again, we realize that your thoughts will change as case law develops, and understand