

Cannabis From A Commercial Lines

- ▶ Perspective

We'll Review

- ▶ Hemp v. Cannabis
- ▶ What Current ISO Based Policies Have To Say
- ▶ Endorsements Seen In The Market Today



Cannabis v. Hemp

Cannabis

- ▶ Cannabis is a genus of flowering plants in the cannabaceae family
- ▶ Three primary species
 - ▶ Cannabis sativa
 - ▶ Cannabis indica
 - ▶ Cannabis ruderalis



Three Species



SATIVA



INDICA



RUDERALIS

Hemp

- ▶ Varieties of cannabis that contain 0.3% (or less) of THC content (dry weight)
- ▶ Generally used to describe non-intoxicating cannabis that is harvested for industrial uses
- ▶ Believed to be one of the first crops cultivated
- ▶ Food, rope, clothing, paper, housing materials

What's THC



- ▶ Tetrahydrocannabinol (THC)
- ▶ THC is the principal psychoactive constituent of cannabis
- ▶ Cannabis plants and derivatives that contain no more than 0.3 percent THC (dry weight) are no longer controlled substances under federal law
- ▶ A direct result of the 2018 Farm Bill

Why 0.3%

- ▶ It is understood that this “standard” of THC (0.3%) came from the work of Canadian research botanist Dr. Ernest Small
- ▶ His work in 1976 with colleague, Arthur Cronquist, “A Practical and Natural Taxonomy for Cannabis”
- ▶ Set a dividing line between hemp and marijuana at 0.3 percent THC for purposes of establishing a biological taxonomy

Current ISO Policies

CP 00 10 10 12

- ▶ Property Not Covered
- ▶ A. Coverage 2. Property Not Covered e.
- ▶ Contraband, or property in the course of illegal transportation or trade
- ▶ Precludes the application of property coverage for cannabis, but not for hemp

Cause Of Loss Forms

- ▶ CP 10 10 (basic), CP 10 20 (broad), CP 10 30 (special)
- ▶ Each excludes loss by governmental action
- ▶ **c. Governmental Action**
 - ▶ Seizure or destruction of property by order of governmental authority
 - ▶ But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

CG 00 01 04 13

- ▶ The CGL, Unendorsed there is no specific exclusion
- ▶ However, virtually every insurer adds a specific exclusion applicable to “cannabis”, hemp, or both
- ▶ Some apply to Cannabis of any sort
- ▶ Some provide for exceptions for Hemp



ENDORSEMENTS

Inclusionary & Exclusionary

Property

- ▶ CP 99 03 12 19, Cannabis Exclusion
- ▶ CP 99 04 12 19, Cannabis Exclusion With Hemp Exception
- ▶ CP 99 06 10 21, Cannabis Coverage

CP 99 03, Cannabis Exclusion

- ▶ “Cannabis” is added as **Property Not Covered**
- ▶ “Cannabis” means: (used in the following endorsements as well, CP 99 04 & CP 99 06)
 - ▶ Any good or product that consists of or contains **ANY AMOUNT** of THC or any other cannabinoid, regardless of whether any such THC or cannabinoid is natural or synthetics
 - ▶ This includes and is not limited to any of the following containing such THC or cannabinoid (paragraph **D.2.a.**)
 - ▶ Any plant of the genus Cannabis L or any part thereof, such as seeds, stems, flowers, stalks and roots; or
 - ▶ Any compound, by-product, extract, derivative, mixture or combination, such as:
 - ▶ Resin, oil, or wax - hash or hemp - infused liquid or edible cannabis whether or not derived from any plant or part of any plant set forth in Paragraph **D.2.a.**

CP 99 04, Cannabis Exclusion With Hemp Exception

- ▶ “Cannabis” is added to **Property Not Covered**
- ▶ But that does NOT APPLY TO goods or products containing or derived from hemp, including but not limited to:
 - ▶ Seeds - Food - Clothing - Lotions, oils or extracts -
 - ▶ Building materials - Paper
 - ▶ But this does not apply to the extent any such goods or products are prohibited under state or local statutes, regulations or ordinances in the state where such goods or products are located
- ▶ “Cannabis” is defined as seen in the initial slide

CP 99 04, Cannabis Exclusion With Hemp Exception (cont.)

- ▶ As is also applicable with the CP 99 03 Cannabis Exclusion, the coverage does NOT APPLY TO the Business Income Coverage forms CP 00 30, CP 00 32, CP 00 50 - even if they are indicated in the Declarations.
- ▶ Language:
- ▶ Coverage under this Policy does not apply to that part of Business Income loss and/or Extra Expense incurred, due to a suspension of your “operations”, which is attributable to the design, cultivation, manufacture, storage, processing, packaging, handling, testing, distribution, sale, serving, furnishing, possession or disposal of “cannabis”.

CP 99 06 10 21, Cannabis Coverage

► Provides options to insure:

1. Your Cannabis Stock
2. Cannabis Stock of Others
3. Cannabis Business Income
4. Cannabis Extra Expense

CP 99 06 10 21, Cannabis Coverage

- ▶ If selected on the endorsement's schedule, coverage would apply to:
- ▶ **Coverage 1 - Your Cannabis Stock**
- ▶ 1. When this optional coverage is selected, your stock of cannabis will be included as Covered Property under Business Personal Property; however, coverage applies only to the extent that such stock is permitted under an applicable state or local statute, regulation or ordinance, in the state where such stock is located.
- ▶ 2. There is also an exception from coverage related to goods or products containing or derived from hemp.

CP 99 06 10 21, Cannabis Coverage

- ▶ If selected on the endorsement's schedule, coverage would apply to:
- ▶ **Coverage 2 - Cannabis Stock Of Others**
- ▶ 1. When this optional coverage is selected, the cannabis stock of others will be included as Covered Property under Personal Property Of Others; however, coverage applies only to the extent that such stock is permitted under an applicable state or local statute, regulation or ordinance, in the state where such stock is located.
- ▶ 2. There is also an exception from coverage related to goods or products containing or derived from hemp.

CP 99 06 10 21, Cannabis Coverage

- ▶ If selected on the endorsement's schedule, coverage would apply to:
- ▶ **Coverage 3 - Cannabis Business Income**
- ▶ 1. When this optional coverage is selected, Business Income coverage is generally extended to apply with respect to your operations which are attributable to cannabis activity, but this coverage does not apply if the suspension of those operations is caused solely by direct physical loss of or damage to cannabis stock which does not qualify as Covered Property under Coverage 1 - Your Cannabis Stock or Coverage 2 - Cannabis Stock Of Others.
- ▶ 2. There is an exception from coverage with respect to Business Income loss which is attributable to goods or products containing or derived from hemp.

CP 99 06 10 21, Cannabis Coverage

- ▶ If selected on the endorsement's schedule, coverage would apply to:
- ▶ **Coverage 4 - Cannabis Extra Expense**
- ▶ 1. When this optional coverage is selected, Extra Expense coverage is generally extended to apply with respect to your operations which are attributable to cannabis activity, but this coverage does not apply if the suspension of your operations is caused solely by direct physical loss of or damage to cannabis stock which does not qualify as Covered Property under Coverage 1 - Your Cannabis Stock or Coverage 2 - Cannabis Stock Of Others.
- ▶ 2. There is an exception from coverage with respect to Extra Expense incurred which is attributable to goods or products containing or derived from hemp.

Liability

- ▶ CG 40 14 12 20, Cannabis Exclusion
- ▶ CG 40 15 12 20, Cannabis Exclusion with Hemp Exception
- ▶ CG 40 16 12 20, Cannabis Exclusion With Hemp & Lessors Risk Exception
- ▶ CG 40 25 12 20, Exclusion - Designated Cannabis Products
- ▶ CG 40 26 12 20, Exclusion - Cannabis Products

Each Form Has These Similarities

- ▶ “Cannabis” definition
- ▶ 1. Means:
- ▶ Any good or product that consists of or contains any amount of Tetrahydrocannabinol (THC) or any other cannabinoid, regardless of whether any such THC or cannabinoid is natural or synthetic.
- ▶ 2. Paragraph C.1. above includes, but is not limited to, any of the following containing such THC or cannabinoid:
- ▶ a. Any plant of the genus Cannabis L., or any part thereof, such as seeds, stems, flowers, stalks and roots; or
- ▶ b. Any compound, by-product, extract, derivative, mixture or combination, such as:
 - ▶ (1) Resin, oil or wax;
 - ▶ (2) Hash or hemp; or
 - ▶ (3) Infused liquid or edible cannabis;whether or not derived from any plant or part of any plant set forth in Paragraph C.2.a.

CG 40 14 12 20, Cannabis Exclusion

- ▶ A. The following exclusion is added:
- ▶ This insurance does not apply to:
 - ▶ 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of:
 - ▶ a. The design, cultivation, manufacture, storage, processing, packaging, handling, testing, distribution, sale, serving, furnishing, possession or disposal of "cannabis"; or
 - ▶ b. The actual, alleged, threatened or suspected inhalation, ingestion, absorption or consumption of, contact with, exposure to, existence of, or presence of "cannabis"; or
 - ▶ 2. "Property damage" to "cannabis".

CG 40 14 12 20, Cannabis Exclusion (cont.)

- ▶ This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph **A.1.** or **A.2.** above.

CG 40 15 12 20, Cannabis Exclusion with Hemp Exception

- ▶ Reads the same as the Cannabis Exclusion, but adds an exception for hemp
- ▶ **B.** The exclusion in Paragraph A. does not apply to:
 - ▶ 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of goods or products containing or derived from hemp, including, but not limited to:
 - ▶ a. Seeds;
 - ▶ b. Food;
 - ▶ c. Clothing;
 - ▶ d. Lotions, oils or extracts;
 - ▶ e. Building materials; or
 - ▶ f. Paper.
 - ▶ 2. "Property damage" to goods or products described in Paragraph B.1. above.

CG 40 16 12 20, Cannabis Exclusion With Hemp & Lessors Risk Exception

- ▶ Reads the same as the preceding endorsement
- ▶ Same definition of “cannabis”
- ▶ Provides the hemp exception as shown previously and adds this exception to the exclusion language:
- ▶ 3. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of a premises leased to others by you; or
- ▶ 4. "Personal and advertising injury" arising out of the following offenses:
 - ▶ a. False arrest, detention or imprisonment; or
 - ▶ b. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor.

CG 40 25 12 20, Exclusion - Designated Cannabis Products

- ▶ Allows the underwriter to exclude designated cannabis products which might have made an otherwise acceptable risk unacceptable
- ▶ A. This insurance does not apply to "bodily injury" or "property damage" included in the "products completed operations hazard" and arising out of any of "your products" that are "cannabis" and shown in the Schedule of this endorsement.

SCHEDULE

Designated Cannabis Product(s):

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



CG 40 26 12 20, Exclusion - Cannabis Products

- ▶ Allows the underwriter to exclude cannabis products which might have made an otherwise acceptable risk unacceptable
- ▶ **A.** This insurance does not apply to "bodily injury" or "property damage" included in the "products completed operations hazard" and arising out of any of "your products" that are "cannabis".
- ▶ No schedule needed as ALL cannabis products are thereby deleted from coverage

- ▶ Insurance forms and endorsements vary based on insurance company; changes in edition dates; regulations; court decisions; and state jurisdiction.
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