

# FLORIDA SHERIFFS ASSOCIATION

## LEGAL ALERT



### **SB 1020: HEMP LEGISLATION** **July 16, 2019**

SB 1020 took effect on July 1 and it amended the definition of cannabis in Florida Statute 893.02(3). Hemp is now excluded from the definition of cannabis provided that the THC concentration does not exceed .3 percent on a dry weight basis.

Hemp looks and smells like cannabis (marijuana), and current field tests for marijuana likely do not distinguish hemp from marijuana. Sheriffs should not assume that a positive field test provides probable cause to search or arrest; additional factors may be needed to satisfy local courts such as concealment of the product, the quantity and packaging of the product, any contradictory statements, etc.

Similarly, it is unlikely that drug detecting canines may be able to distinguish between hemp and marijuana. Sheriffs should determine if their canines can detect hemp as opposed to marijuana. Assuming they cannot, additional factors aside from a canine alert may be needed to establish probable cause. There are field testing kits available from the Syndicate Alliance that can test for hemp, but validation of their reliability is still pending.

It is important to note that FSA advised legislators of the enforcement issues created by this legislation that are now upon us. Further discussion on this topic will be conducted during Executive Session at Summer Conference on July 30<sup>th</sup>. In the meantime, sheriffs should discuss the impact of this legislation with their legal advisors, state attorneys, and other local law enforcement agencies to decide how this law will be administered in their judicial circuit.

**July 16, 2019**  
**Legal Alert #5**

*Questions concerning this legal alert should be directed to the sheriff's legal advisor or may otherwise be directed to Wayne Evans, General Counsel for the FSA, at [revans@anblaw.com](mailto:revans@anblaw.com), 850.561.3503.*

