



September 15, 2023

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House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Chairwoman Debbie Stabenow
Senate Committee on Agriculture, Nutrition, & Forestry
328A Russell Senate Office Building
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Ranking Member David Scott
House Committee on Agriculture
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Ranking Member John Boozman
Senate Committee on Agriculture, Nutrition, & Forestry
328A Russell Senate Office Building
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Re: Call for modifications to the Farm Bill to address hemp-derived cannabinoid products

The Cannabis Regulators Association (CANNRA), a nonpartisan association representing cannabis and hemp regulatory agencies from 45 member states and U.S. territories, urges Congress to consider changes to the 2023 Farm Bill to protect consumer safety and public health. The Agriculture Improvement Act of 2018 (the 2018 Farm Bill) was drafted with a focus on agricultural commodities and non-intoxicating hemp products. However, the language of the bill has inadvertently resulted in a thriving market for intoxicating cannabinoid products that are included (or claim to be included) within the definition of “hemp.”

Accordingly, CANNRA calls on Congress to consider the following changes related to hemp and hemp-derived cannabinoid products:

- 1. Delineate the definition of hemp as an agricultural commodity grown for food, fiber, and feed from a definition of hemp that is grown for any other purpose, including the extraction of cannabinoids.** This could be done by defining hemp and hemp-derived cannabinoid products as follows:

Definitions:

Hemp. The term “hemp” means the plant *Cannabis sativa L.* and any part of that plant, whether growing or not, with a total tetrahydrocannabinol concentration of not more than 0.3 percent in the plant on a dry weight basis. The term “hemp” does not include viable seeds from a *Cannabis sativa L.* plant if that plant exceeded a total tetrahydrocannabinol concentration of 0.3 percent in the plant on a dry weight basis.

Hemp-derived cannabinoid products. The term “hemp-derived cannabinoid products” means any hemp-derived product that is not the raw plant and is extracted, derived, infused, processed, or manufactured that contains cannabinoids in any form and is intended for human consumption or inhalation, including, but not limited to: combusted, aerosolized, or inhaled products, ingested products in any form, and topical products.

- a. In defining total THC on a dry weight basis, include tetrahydrocannabinolic acid (THCA) and delta-9 THC, with regulatory authority to add limitations and restrictions to other cannabinoids as needed.** THCA is the precursor to delta-9 THC and readily converts to delta-9 THC when heated, combusted, or aerosolized. For this reason, state cannabis programs define total THC in terms of THCA and THC.

For example:

*Total tetrahydrocannabinol in hemp shall be calculated including the quantity of delta-9 tetrahydrocannabinolic acid contained in the applicable plant and plant parts described in [prior paragraphs/definitions] using the following equation: delta-9 THC + (delta-9 THCA*0.877).*

- b. **Because 0.3% THC can yield substantial amounts of THC in heavier items like chocolate bars and cookies, establish limits for THC in hemp plants (e.g., 0.3% total THC) that are different from limits a federal regulatory agency may establish for hemp-derived cannabinoid products.**

For example:

The concentration of not more than 0.3% total tetrahydrocannabinol on a dry weight basis:

(i) applies only to the plant Cannabis sativa L. and any part of that plant, as described in the definition of hemp;

(ii) does not apply to any intermediate or final product made from a plant or plant part. Limits for tetrahydrocannabinol in intermediate or final products may be set by X agency.

2. **Identify, authorize, and fund a federal regulator with a background in public health and consumer protection to regulate cannabinoids and cannabinoid hemp products. Within a short and specified timeframe, require the regulatory agency to:**

- Provide clear boundaries and definitions for products that will be regulated under cannabinoids and cannabinoid hemp products.
- Provide regulations that set minimum requirements for: processing and manufacturing approaches, ingredients, allowable modes of consumption and product types, contaminant and cannabinoid testing, packaging and labeling, and serving size and package limits.
- Clarify whether semi-synthetic cannabinoids and biosynthetic cannabinoids are allowed under the definition of hemp-derived cannabinoids, and which production and manufacturing approaches are approved.
- Establish and implement an education and enforcement approach to ensure compliance.

It will be essential to set regulations for hemp-derived cannabinoid products (as defined above) and to ensure that no additional loopholes are exploited from the statutory language. Establishing cannabinoid limits through rulemaking allows flexibility for regulations to adjust in response to real world conditions.

For example:

The Commissioner of Food and Drugs and the Secretary of Health and Human Services shall promulgate rules for hemp-derived cannabinoid products no later than XX/XX/XX, date, including rules that specify allowable cannabinoid limits in hemp-derived cannabinoid products, required safety standards that must be met for manufacturing and sale of products, allowable product forms, required packaging and labeling standards, and compliance and enforcement.

3. **Ensure that states and territories can go beyond federal policies to protect consumer safety and public health.** Federal policies should set a minimum standard. There should not be a federal preemption of state and territorial regulatory policies related to hemp and cannabinoid products. States and territories need the ability to be nimble to react and adjust to issues that may pertain to their marketplace or population.

For example:

Nothing in [reference section] shall preempt a state or territory from enacting regulations that extend beyond federal regulations in order to further protect consumers or public health.

In the absence of federal clarity and regulation over finished cannabinoid products, state and territorial governments have been left to implement approaches to protect consumers. These approaches vary, and are generally different across jurisdictions, creating a regulatory patchwork for hemp-derived products. Additionally, enforcement of state-based regulations by state agencies is difficult when hemp-derived products are produced out of state and shipped directly to consumers across state lines through the mail.

The aforementioned regulatory clarifications represent examples of key initial changes that are urgently needed in the Farm Bill to support state and territorial regulators, protect consumers, and set minimum standards for industry participants. CANNRA, and our member cannabis and hemp regulators continue to be available as an important resource to Congress as discussions about the Farm Bill reauthorization progress and a regulatory framework is considered.

Respectfully,

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