

Hemp as a Foundation for Cannabis Growth

The 2018 Farm Bill redefined hemp by removing it from the Controlled Substances Act, effectively making it “descheduled cannabis”. This change has allowed hemp-derived legal-THC (HDLT) to flourish with significant regulatory and market advantages that the broader cannabis industry can learn from.

SEC. 12619. CONFORMING CHANGES TO CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 102(16) of the Controlled Substances Act (21 U.S.C. 802(16)) is amended—

(1) by striking “(16) The” and inserting “(16)(A) Subject to subparagraph (B), the”; and

(2) by striking “Such term does not include the” and inserting the following:

“(B) The term ‘marihuana’ does not include—

“(i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946; or

“(ii) the”.

(b) TETRAHYDROCANNABINOL.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (c)(17) by inserting after “Tetrahydrocannabinols” the following: “, except for tetrahydrocannabinols in hemp (as defined under section 297A of the Agricultural Marketing Act of 1946)”.

Approved December 20, 2018.

This provision comes from the 2018 Farm Bill. You can scroll to the bottom of the bill to see it, [here](#). This marks the first instance in which the United States voted to deschedule parts of the cannabis plant. This is what it might look like if we “finish the job” in the future.

Definitions and Context

All products discussed in this paper are derived from the same botanical plant, *Cannabis sativa*. However, they are legally categorized differently:

- **Hemp:** Defined by the 2018 Farm Bill as cannabis containing less than 0.3% Delta-9-THC on a dry weight basis. Hemp includes hemp-derived legal-THC (HDLT) products, which enjoy significant legal and regulatory advantages.
- **Marijuana:** Cannabis products with more than 0.3% Delta-9-THC, regulated under state-specific laws and still federally illegal under the Controlled Substances Act (CSA). Products regulated under state frameworks, such as Illinois' CRTA, fall under this category.

Novel Cannabinoids:

The hemp and marijuana industries produce and sell novel cannabinoids, even though scientific knowledge about these compounds remains incomplete. Despite widespread acknowledgment that ‘the science isn’t there yet,’ this concern has not hindered the rapid adoption of state-level

marijuana laws. The pervasive lack of cannabinoid research affects both industries, and while this gap is concerning, it has never served as a valid justification for banning these products.

Hemp's Role in Advancing Cannabis Research:

Hemp has revitalized cannabis research in the United States. Its descheduled status has enabled colleges and universities—such as the University of Illinois, Southern Illinois University, and several other institutions nationwide—to pursue studies that marijuana's federal Schedule I classification has long restricted. This legal framework has paved the way for academic exploration of cannabinoids and their diverse applications.

Key Benefits of Hemp Policy

- 1. Descheduling and Legal Freedoms**
 - Hemp's descheduled status has enabled interstate commerce.
 - Access to banking services, credit card processing, and other financial tools, overcoming major challenges that hinder cannabis businesses.
 - Ability to register copyrights and trademarks, adding legal protections for brands.
- 2. Market Access and Consumer Choice**
 - Hemp can be sold online and in traditional retail stores, providing a more consumer-friendly experience compared to dispensary-only sales.
 - The simplified licensing process in many states, such as Illinois where hemp licenses can be issued quickly, supports a more accessible market.
- 3. Open and Competitive Market**
 - No license moratoriums promote competition and innovation.
 - Consumers benefit from no purchase or possession limits, which increases freedom of choice.
 - Online purchasing and direct delivery make hemp products easily accessible and align with consumer expectations.

Recommendations:

- 1. Establish Ownership Limits**
Implementing ownership caps can help prevent market consolidation, fostering a more competitive and diverse marketplace where smaller businesses can thrive.
- 2. Limit Vertical Integration**
Setting restrictions on vertical integration ensures a level playing field and encourages fair competition among businesses of varying sizes.
- 3. Strengthen Corporate Accountability**
Introducing protections to prevent corporations with histories of public fraud, corporate crimes, or significant health impacts from entering the market can help build consumer trust and ensure ethical practices.
- 4. Enhance Testing Standards Beyond Delta-9-THC Levels**
Expanding testing beyond the Delta-9-THC percentage threshold (0.3%) can

support more comprehensive quality assurance, improving product safety and consistency for consumers.

5. Improve Testing Integrity Across Markets

Instituting oversight by reference laboratories as a standard practice for all state-regulated markets can address issues like lab shopping, inflated potency results, and quality inconsistencies, ensuring better consumer protection and product reliability.

Addressing Concerns and Adopting Solutions

The hemp industry's regulatory advantages have fostered accessibility, yet critics argue that this unregulated environment has also enabled the sale of poorly manufactured and potentially harmful cannabinoid products—some possibly synthetic—to uninformed consumers, including minors. Some claim this has led to a “public health crisis” and caused “economic distress” for the legal cannabis market. Though these concerns may blend real issues with red herrings, exploring responsible solutions can help ensure safe consumer access and protect market integrity.

Lessons from [Rod Kight's Three-Pillar Approach](#)

1. Age-Gating for Responsible Access

- Apply age restrictions to ensure minors do not access hemp products, aligning with public safety standards.

2. Quality Control for Safety

- Require adherence to Good Manufacturing Practices (GMP) to guarantee product safety and consistency.
- Address synthetic cannabinoid concerns by focusing on regulated, safe production.

3. Transparent Labeling for Consumer Information

- Ensure products are labeled with clear ingredient and concentration details, along with potential side effects like impairment or drug test outcomes.
- Avoid arbitrary potency caps; informed consumers should have the choice of product strength.

Hemp as a Policy Model

- Both hemp and marijuana policies are subject to a patchwork of state regulations.
- Hemp's regulatory framework provides a path for cannabis policy that balances accessibility with safety. This approach can inspire broader reform, demonstrating that consumer safety and industry growth can coexist without stifling regulations.

Conclusion By adopting the positive aspects of hemp policy—such as descheduling, market accessibility, and consumer-focused regulations—while addressing legitimate concerns with practical solutions, the cannabis industry can build a sustainable and progressive future. This

model promotes growth, supports consumer choice, and maintains necessary safety standards without overregulation.