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Federal Hemp Program Changes

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INTRODUCTION

On November 12, 2025, President Donald Trump signed legislation that effectively bans most consumable hemp-derived tetrahydrocannabinol (THC) products across the United States. The provision was included in House of Representatives Bill (HR) 5371, the spending bill that ended the most recent government shutdown, and it will take effect one year after its enactment. The legislation significantly alters the hemp industry framework established under the 2018 Farm Bill and, by extension, Michigan's hemp program.

BACKGROUND

The 2018 Farm Bill (Agriculture Improvement Act of 2018) changed the legal status of hemp by removing it from the Controlled Substances Act (CSA) and defining it as an agricultural commodity.¹ This action legalized the commercial production of hemp nationwide under a Federal regulatory framework overseen by the US Department of Agriculture (USDA). Essentially, the statute and associated regulations establish a national regulatory baseline for hemp production that focuses on licensing, land reporting, THC testing, and compliance. States and tribes may apply to administer their own programs, provided they meet or exceed Federal standards. To do so, a state or tribe must submit a hemp production plan to the USDA for approval. Required elements for a state/tribal plan include the following: 1) licensing procedures for producers, 2) land reporting requirements, 3) sampling and testing protocols for THC, 4) procedures for disposal and remediation of noncompliant plants, 5) compliance and enforcement mechanisms, 6) information-sharing requirements with the USDA for law enforcement access, and 7) certification of resources to ensure the state/tribe can administer the plan.²

In 2018, Michigan enacted the Industrial Hemp Research and Development Act (Public Act (PA) 641 of 2018). This Act amended PA 547 of 2014, which originally authorized cultivation of industrial hemp for research purposes only. In 2020, the Industrial Hemp Growers Act was enacted, which authorized the Michigan Department of Agriculture and Rural Development (MDARD) to establish an industrial hemp program. The Act again was updated in March 2021, to comply with the USDA's Final Rule.³ The Industrial Hemp Growers Act authorizes the Department to develop and submit to USDA an industrial hemp plan that complies with 7 USC 1639o to 1639s and, after approval, to use the plan to administer Michigan's hemp program.⁴ The MDARD updated Michigan's Hemp Production Plan on June 8, 2022.⁵

RELEVANT PROVISIONS

Effective 365 days after its enactment, Section 781 of HR 5371 amends Section 297A of the Agricultural Marketing Act of 1946 (7 USC 1639o) to redefine the term 'hemp' to mean "the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a *total tetrahydrocannabinols concentration* (including tetrahydrocannabinolic acid [THCA]) of not more than 0.3 percent on a dry weight basis" (emphasis added), including industrial hemp.⁶ Currently, that term means "the plant *Cannabis sativa* L. and any part of that plant,

¹ Agriculture Improvement Act of 2018, sec. 12619.

² 7 USC § 1639p.

³ See 86 Federal Register 5596, 1-19-2021.

⁴ MCL 333.29105.

⁵ "Michigan Hemp Production Plan v3. 6-3-2022", 6-8-2022. Available at: "Status of State and Tribal Hemp Production Plans for USDA Approval", United State Department of Agriculture Agricultural Marketing Service, <https://www.ams.usda.gov/rules-regulations/hemp/state-and-tribal-plan-review>

⁶ The bill further defines 'industrial hemp' as generally as hemp (A) grown for the use of the stalk of the plant, fiber produced from a stalk, or any other non-cannabinoid derivative, mixture, preparation, or manufacture of the stalk; (B) grown for the use of the whole grain, oil, cake, nut, hull, or any other non-cannabinoid compound, derivative, mixture, preparation, or

including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." The bill also excludes from the term 'hemp' the following items:

- Seeds from a *Cannabis sativa* L. plant if the plant has more than 0.3% THC (including THCA) by dry weight.
- Intermediate hemp-derived products that contain a) cannabinoids not naturally produced by *Cannabis sativa* L.; b) cannabinoids that can occur naturally but were made or synthesized outside the plant; c) more than 0.3% total of THC (including THCA) and any other cannabinoids with similar effects (or marketed as such) on humans or animals.
- Intermediate hemp-derived products marketed or sold as a final product or directly to consumers for personal or household use.
- Final hemp-derived products that contain a) cannabinoids not naturally produced by *Cannabis sativa* L.; b) cannabinoids that can occur naturally but were made or synthesized outside the plant; c) more than 0.4 mg total per container of THC (including THCA) and any other cannabinoids with similar effects.

While the bill does not change the mechanics of the USDA's Hemp Program itself, the definitional changes described above will have the following implications:

Reduced THC Limits. The bill effectively bans hemp products that contain more than 0.4 milligrams of total THC per container. For context, a typical hemp gummy or beverage contains 2.5 to 10 milligrams of delta-9-THC.

Legal Hemp Redefined. The legislation specifies that the 0.3% threshold will apply to total THC (including *delta-8 and other isomers*) as opposed to only delta-9 THC on a dry weight basis. This changes what qualifies as "hemp" under Federal law. Hemp products that have THC levels that exceed the specified limits are considered 'marijuana' and are illegal under Federal law.

Prohibited Products. The 'ban' will cover 1) intermediate hemp-derived cannabinoid products marketed or sold as a final product or directly to consumers for personal or household use; 2) products containing cannabinoids that are synthesized or manufactured outside of the cannabis plant or not capable of being naturally produced by it; and 3) all natural and converted THC forms (e.g., delta-9, delta-8, etc.) in consumable forms (drinks, gummies, etc.). It is possible that the 'ban' could apply to cannabidiol (i.e., CBD) products, which are nonintoxicating and are used by individuals for medical reasons.

IMPACTS

The legislation represents a substantial shift in Federal hemp policy with far-reaching consequences for manufacturers, retailers, farmers, and consumers. Reportedly, many of the products that meet the current THC thresholds do not meet the new ones. This means that many manufacturers and retailers will have to explore whether their products can be reformulated or draw down their business within the 365-day window.

The impact on Michigan may not be substantial, however. On the one hand, since Michigan's statutory framework for its hemp program is reliant on the old thresholds, new Federal thresholds mean that Michigan's hemp program will no longer meet Federal requirements. To continue maintaining its own hemp program, Michigan statute will need to be amended. On the other hand, the number of hemp growers registered in Michigan has dropped substantially. In May 2022, 80 growers were registered.⁷ As of December 2025, the number has dropped to 24.⁸ Some industry stakeholders have advocated shifting Michigan's program to a USDA-administered program. Legislation to do this has been introduced in the Michigan House and Senate.⁹ Those bills would repeal the Industrial Hemp Growers Act, which would eliminate MDARD's authority to administer the hemp program. In that event, production of hemp in Michigan would be subject to a USDA plan.¹⁰

manufacture of the seeds of such plant; (C) grown for purposes of producing edible hemp leaf products intended for human consumption that are derived from an immature hemp plant that is grown from seeds that do not exceed the specified total tetrahydrocannabinols concentration threshold; (D) that does not enter the stream of commerce and is intended to support hemp research at a university or an independent research institute; or (E) grown for the use of a viable seed of the plant produced solely for the production or manufacture of any material above.

⁷ MDARD, electronic communication with the author, 5-31-2022.

⁸ MDARD, electronic communication with the author, 12-2-2025.

⁹ See, e.g., House Bill 5095 (2025) and Senate Bill 608 (2025), available at the Michigan Legislature website: <http://www.legislature.mi.gov>.

¹⁰ 7 USC § 1639q.