

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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No. 19-35138

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BIG SKY SCIENTIFIC LLC,

Plaintiff-Appellant,

v.

IDAHO STATE POLICE, ADA COUNTY, and JAN M. BENNETTS, in her  
official capacity as Ada County Prosecuting Attorney,

Defendants-Appellees

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On Appeal from the United States District Court for the District of Idaho  
The Honorable Ronald E. Bush, Chief Magistrate Judge  
Case No. 1:19-cv-00049-REB

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**MOTION OF THE AMERICAN TRADE ASSOCIATION OF CANNABIS  
AND HEMP FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN  
SUPPORT OF APPELLANT BIG SKY SCIENTIFIC LLC**

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The American Trade Association of Cannabis and Hemp (“ATACH”), by its undersigned counsel, Duane Morris LLP, hereby moves this Court for leave to file a brief as *amicus curiae* in support of Appellant Big Sky Scientific LLC’s motion to reverse the District Court’s denial of a Temporary Restraining Order and Preliminary Injunction, and in support thereof avers the following:

1. ATACH is a trade organization for hemp and marijuana industry leaders from around the country.
2. ATACH was founded to promote the expansion, protection, and preservation of businesses engaged in the legal trade of industrial hemp, medical, and adult-use marijuana, and products derived therefrom. ATACH plays a leading role in advancing and developing the hemp and marijuana industry, and a number of state hemp, marijuana, and cannabis<sup>1</sup> trade associations have formal affiliations with ATACH.
3. ATACH’s membership is comprised of major operators of cannabis growing facilities and dispensaries such as Medicine Men, Urban Farmers, and Keef Brands, as well as ancillary businesses such as Boveda, the leading manufacturer of two-way humidifier equipment, and the Drug Plastics and Glass Company, a leading manufacturer of pharmaceutical packaging. ATACH has

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<sup>1</sup> Because both hemp and marijuana derive from the plant *Cannabis sativa L.*, “cannabis” refers to hemp and marijuana collectively.

formal relationships with a number of state cannabis and hemp trade associations.

Significantly, for this case, ATACH's National Council of State Organizations includes major trade organizations in states comprising the Ninth Circuit:

Montana Cannabis Industry Association, Washington Cannabusiness Association, Alaska Marijuana Industry Association, Western Regional Cannabis Business Alliance, Oregon Cannabis Business Council, and Washington's Cannabis Organization of Retail Establishments

4. ATACH therefore has a direct and substantial interest in the outcome of this Action, and is uniquely positioned to inform the Court about the general impact that the lower court's decision would have on the industrial hemp industry.

5. This matter concerns whether a hemp cultivator in one state may lawfully ship cultivated hemp to a processor in another state without interference from a third state through which the hemp happens to be shipped.

6. The Court's decision will have a direct effect on these businesses affiliated with ATACH. In particular, ATACH and its members are concerned that, if this Court upholds the lower court's decision, transportation of lawfully cultivated or processed hemp will be prohibited across many state lines. This will stop the growth of a rapidly developing industry and will have a significant negative effect on businesses affiliated in any way with the hemp industry—both

of which are in direct contravention of Congress in its enactment of the 2108 Farm Bill.

7. Thus, ATACH's interest in this appeal and the matters to be raised in its brief meet the requirements of Fed. R. App. P. 29, and ATACH is an appropriate party to serve as *amicus curiae*. See *Miller-Wohl Co., Inc. v. Commr. of Lab. and Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982) (describing “the classic role of *amicus curiae* by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration.”); see also *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 133 (3d Cir. 2002) (the Court should “err on the side of granting leave,” for file an *amicus* brief “unless it is obvious that the proposed briefs do not meet Rule 29’s criteria as broadly interpreted.”).

8. Because of the broad public importance of the issues raised in this case, ATACH seeks leave to file a brief as *amicus curiae* in support of Appellant Big Sky Scientific, LLC. The proposed brief is being filed concurrently with this motion.

9. Pursuant to Circuit Rule 29-3, ATACH endeavored to obtain the consent of all parties to the filing of this motion before moving the Court for permission to file. Big Sky Scientific LLC does not oppose ATACH's filing, but

takes no position as to the substance of the brief. Appellees do not consent to this filing.

WHEREFORE, for the foregoing reasons, ATACH respectfully requests leave to file its brief *amicus curiae*, filed concurrently with this motion, in support of Appellant Big Sky Scientific LLC, in accordance with the accompanying proposed Order.

Respectfully Submitted,

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April 3, 2019

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**BRIEF OF *AMICUS CURIAE* THE AMERICAN TRADE ASSOCIATION  
OF CANNABIS AND HEMP IN SUPPORT OF APPELLANT AND  
REVERSAL OF THE DISTRICT COURT**

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1, *amicus curiae* the American Trade Association of Cannabis and Hemp (“ATACH”) states that it is not publicly traded, has no parent company, and no publicly traded company owns 10% or more of ATACH’s stock.

**STATEMENT REQUIRED BY FED. R. APP. P. 29(a)(4)(E)**

ATACH states that no counsel for a party authored this brief in whole or in part. No party, its counsel, or any other person other than ATACH has made a monetary contribution to fund the preparation and submission of this brief.

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**STATEMENT OF IDENTITY AND INTEREST OF *AMICUS CURIAE***

ATACH is a 501(c)(6) trade organization registered in Washington, DC, comprised of hemp and marijuana industry leaders from around the country. ATACH seeks to promote the marketplace expansion, protection, and preservation of businesses engaged in the legal trade of industrial hemp and medical and adult-use marijuana products. ATACH plays a leading role in advancing and developing the hemp and marijuana industry, and a number of state hemp, marijuana, and cannabis<sup>1</sup> trade associations have formal affiliations with ATACH. ATACH has also worked for years to develop industry standards and responsible regulation for the cannabis industry. *See, e.g.,* John Schroyer, ‘*Monumental*’ Meeting Culminates with Call for National Marijuana Business Standards, MJBIZDAILY.COM, <https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/> (July 28, 2015) (ATACH participates in a meeting among industry leaders and twenty state attorneys general focused on the development of national cannabis business standards), attached as Exhibit A.

ATACH’s membership is comprised of major operators of cannabis growing facilities and dispensaries such as Medicine Men, Urban Farmers and Keef Brands, as well as ancillary businesses such as Boveda, the leading manufacturer of two-

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<sup>1</sup> As discussed below, because both hemp and marijuana derive from the plant *Cannabis sativa L.*, “cannabis” refers to hemp and marijuana collectively.

way humidifier equipment, and Drug Plastics and Glass Company, a leading manufacturer of pharmaceutical packaging. ATACH has formal relationships with a number of state cannabis and hemp trade associations. Significantly for this case, ATACH's National Council of State Organizations includes major trade organizations in states comprising the Ninth Circuit: Montana Cannabis Industry Association, Washington Cannabusiness Association, Alaska Marijuana Industry Association, Western Regional Cannabis Business Alliance, Oregon Cannabis Business Council, and Washington's Cannabis Organization of Retail Establishments.

ATACH therefore has a direct and substantial interest in the outcome of this Action. This matter concerns whether a hemp cultivator in one state may lawfully ship cultivated hemp to a processor in another state without interference from a third state through which the hemp happens to be shipped. The Court's decision will have a direct effect on these businesses affiliated with ATACH. In particular, ATACH and its members are concerned that, if this Court upholds the lower court's decision, transportation of lawfully cultivated or processed hemp will be prohibited across many state lines. This will stop the growth of a rapidly developing industry and will have a significant negative effect on businesses affiliated in any way with the hemp industry—both of which are in direct contravention of Congress in its enactment of the 2108 Farm Bill.

ATACH is uniquely positioned to inform the Court about the general impact that the lower court's decision would have on the industrial hemp industry.

ATACH is filing this *amicus curiae* brief in support of Appellant Big Sky Scientific, LLC to advise the Court of the potential consequences and harm the hemp industry would suffer should the Court affirm the decision of the trial court.

ATACH has been authorized by its Board of Directors to file this brief on behalf of its membership.

## I. INTRODUCTION

Big Sky Scientific, LLC, a Colorado-based hemp processor, purchased federally lawful hemp from a state-licensed hemp cultivator in Oregon. The parties arranged to ship the hemp from Oregon to Colorado via motor carrier. When *en route* to Colorado the shipment entered Idaho, the Idaho police seized the cargo and arrested the driver, alleging violations of Idaho state law. The specific facts of the case are set forth in Big Sky’s opening brief, which ATACH adopts by incorporation.

The Agriculture Improvement Act of 2018 (the “2018 Farm Bill”) explicitly forbids the actions of the Idaho police by providing that no state may prohibit the transportation of hemp when such hemp is cultivated pursuant to the 2018 Farm Bill *or* another federal law. Here, the hemp seized by the police was cultivated in accordance with Oregon’s industrial hemp program, a program that was developed pursuant to the Agriculture Act of 2014 (the “2014 Farm Bill”). Therefore, the hemp at issue was cultivated in accordance with a federal law, and under the 2018 Farm Bill, the Idaho police may not interfere with the product’s shipment through Idaho.

In denying Big Sky’s motion for a temporary restraining order and preliminary injunction, the lower court improperly concluded that the 2018 Farm Bill’s prohibition against state interference with the shipment of hemp is not

effective until the United States Department of Agriculture promulgates regulations and approves state hemp programs. The interstate commerce provision contains no such limitation and must be read in conjunction with the section of the new law grandfathering in the existing program.

The actions of the state of Idaho and Ada County injure not just Big Sky, but individuals and entities in the industrial hemp industry as a whole. The decision freezes the industrial hemp industry and restricts the supply of both hemp products and hemp-industry-related services, the very opposite of the result Congress intended in the 2018 Farm Bill.

## II. **ARGUMENT**

### A. **Hemp is Not Marijuana**

Although hemp and marijuana are both strains of the *Cannabis sativa L.* plant, they have distinct features. The fundamental difference is that marijuana contains more than .3 percent delta-9-tetrahydrocannabinol (“THC”), a psychoactive chemical, and hemp does not. Products derived from hemp do not have a narcotic effect. *See, e.g.,* Commissioner Scott Gottlieb, *Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to advance agency’s continued evaluation of potential regulatory pathways for cannabis-containing and cannabis-derived products*, FDA.GOV,

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(April 2, 2019) (“*Commissioner Gottlieb Statement*”) (explaining the 2018 Farm Bill “established a new category of cannabis classified as ‘hemp’ – defined as cannabis and cannabis derivatives with extremely low (no more than 0.3 percent on a dry weight basis) concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC).”), attached as Exhibit B; Pa. Dept. of Agriculture, *Frequently Asked Questions*, Agriculture.Pa.Gov, [https://www.agriculture.pa.gov/Plants\\_Land\\_Water/industrial\\_hemp/Pages/Industrial-Hemp-Program-FAQs.aspx](https://www.agriculture.pa.gov/Plants_Land_Water/industrial_hemp/Pages/Industrial-Hemp-Program-FAQs.aspx) (updated January 22, 2019) (“*Pa. Dept. of Agriculture FAQs*”) (“Industrial hemp and marijuana are different varieties of the same species of plant, *Cannabis sativa*. Marijuana is cultivated because of its production of the psychoactive plant chemical THC. Industrial hemp is cultivated for fiber, seed and other purposes”), attached as Exhibit C; *see also Hemp Industries Ass’n. v. Drug Enf’t Admin.*, 357 F.3d 1012, 1017 (9th Cir. 2004) (“Appellants’ products do not contain the ‘synthetic’ ‘substances or derivatives’ that are covered by the definition of THC, and non-psychoactive hemp is explicitly excluded from the definition of marijuana.”).

The Controlled Substances Act however made no distinction between marijuana and hemp. It treated all forms of the *Cannabis sativa L.* as the same.

Only certain parts of the plant were excluded from the CSA. Those parts were of limited commercial value.

**B. The Rapid Expansion of the Hemp Industry Throughout the United States Under the 2014 Farm Bill**

The status of hemp dramatically changed in 2014 under the 2014 Farm Bill. 2014 Farm Bill, Pub. L. No. 113-79, 128 Stat. 649. The 2014 Farm Bill explicitly authorized states to establish programs for the in-state cultivation of industrial hemp to study its growth, cultivation, or marketing. *Id.* at § 7606. The 2014 Farm Bill defined “industrial hemp” as “the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol [THC] concentration of not more than 0.3 percent on a dry weight basis.” *Id.*

States throughout the country, including both Colorado and Oregon, responded to the 2014 Farm Bill by developing industrial hemp programs. *See* Colo. Rev. Stat. § 35-61-101 *et seq.* (Colorado); Or. Rev. Stat. § 571.300 *et seq.* (Oregon); *see also, e.g.,* Va. Code Ann. § 3.2-4112 *et seq.* (Virginia); N.C. Gen. Stat. § 106-568.50 *et seq.* (North Carolina); Ind. Code § 15-15-13-0.5 *et seq.* (Indiana). In fact, both Colorado and Oregon’s industrial hemp programs explicitly refer to the interstate transportation of industrial hemp. *See* Colo. Rev. Stat. § 35-61-108 (“Nothing in this article 61 limits or precludes the exportation of industrial hemp in accordance with the federal ‘Controlled Substances Act. . .’”); Or. Admin. R. § 603-048-1500 (“[a] person may not sell an industrial hemp

commodity or product to a consumer unless the industrial hemp used to process the commodity or product complied with the laws and regulations for the jurisdiction where the hemp was grown. . .”) (emphasis added).

Today, forty states have industrial hemp programs. *See* National Conference of State Legislatures, *State Industrial Hemp Statutes*, NCSL.ORG, <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (February 1, 2019), attached as Exhibit D. Of those that do not have industrial hemp programs, at least three—Ohio, Georgia, and Texas—are actively considering such programs and have legislation pending in their respective state legislatures. *See* S.B. No. 57, 133rd Gen. Assemb., Reg. Sess. (Oh. 2019); H.B. No. 213, 2019-2020 Gen. Assemb., Reg. Sess. (Ga. 2019); S.B. 1240, 86<sup>th</sup> Gen. Assemb., Reg. Sess. (Tx. 2019).

The 2014 Farm Bill was the first step in investigating whether there could be a commercial market for hemp, and the answer came quickly. Since 2014, the hemp industry enjoyed explosive growth. A report by Hemp Industry Daily, an industry publication, which surveyed hemp cultivators, processors, and retailers throughout the United States, shows the industry’s staggering year-over-year expansion. *See* Hemp Industry Daily, *Annual Hemp & CBD Industry Factbook*, (2018) (hereafter “*Hemp Factbook*”), attached as Exhibit E. The total acres of hemp grown in the United States in 2016 was 9,767; in 2017 that number grew by

more than 250%, to 26,217 acres. *Id.* at 9. Only 36% of hemp cultivators generated revenue in 2017, but at the time of surveying, 77% of cultivators expected to generate revenue in 2018. *Id.* at 42. Hemp processors generated an average of \$250,000 in revenue in 2017, but expected revenue to climb by more than \$100,000 in 2018, to \$355,000. *Id.* at 59.

The versatility of the plant has fueled hemp’s year-over-year marketplace growth. Hemp can be used to make many products, including paper, rope, concrete (“hempcrete”), clothing, and much more. *See* National Hemp Association, *Hemp Facts and Statistics*, NATIONALHEMPASSOCIATION.ORG, <https://nationalhempassociation.org/facts-statistics-hemp/> (last visited April 3, 2019) (hereafter “*Hemp Facts*”), attached as Exhibit F. Forbes reported there are as many as 25,000 products that can be made from hemp. Logan Yonavjak, *Industrial Hemp: A Win-Win for the Economy and the Environment*, FORBES.COM, <https://www.forbes.com/sites/ashoka/2013/05/29/industrial-hemp-a-win-win-for-the-economy-and-the-environment/#6036564e289b> (May 29, 2013), attached as Exhibit G. One of the most popular hemp products is hemp-derived cannabidiol (“CBD”).<sup>2</sup> The annual U.S. Hemp-derived CBD market, a *subset* of the overall

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<sup>2</sup> Cannabidiol is a substance found in the *Cannabis sativa L.* plant that some believe provides therapeutic benefits for persons dealing with conditions such as chronic pain, anxiety, and depression. *See* Project CBD, *What is CBD?*, PROJECTCBD.ORG, at <https://www.projectcbd.org/cbd-101/what-is-cbd> (last visited April 3, 2019), at Exhibit H. It does not have narcotic properties or effect.

hemp market, is expected to see retail sales grow from \$490-\$540 million in 2018 to **\$2.5-\$3.1 billion** in 2022. *Hemp Factbook* at 14, Exhibit E.

**C. The Federal Government Decides to Legalize Hemp and Declare it an Agricultural Commodity**

On December 20, 2018, President Trump signed the 2018 Farm Bill into law.<sup>3</sup> The 2018 Farm Bill broadened the ability of states to regulate the cultivation, processing, and sale of hemp in several important ways.

First, the 2018 Farm Bill expanded the definition of “industrial hemp” from the definition in the 2014 Farm Bill, removing the qualifier “industrial,” and explicitly including derivatives, extracts, and cannabinoids:

‘hemp’ means 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 delta-9 tetrahydrocannabinol [“THC”] concentration of not more than 0.3 percent on a dry weight basis.

2018 Farm Bill, Pub. L. No. 115-334 § 10113, 132 Stat. 4490.

Second, and crucially, it removed hemp from the CSA. *See* 2018 Farm Bill at § 12619; *see also* 21 U.S.C. § 802(16).

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*See Commissioner Gottlieb Statement*, at Exhibit B; *Pa. Dept. of Agriculture FAQs*, at Exhibit C.

<sup>3</sup> ATACH disagrees with Big Sky’s position that states may still ban the cultivation and processing of industrial hemp in the wake of the 2018 Farm Bill. That issue is not before this Court and will not be addressed here.

Third, hemp is declared an agricultural commodity like any other crop. *See* 2018 Farm Bill at § 10113 (amending the Agricultural Improvement Act to include Section G, for hemp production). Crop insurance and other agricultural programs are made available to hemp farmers. *See* 2018 Farm Bill at § 11101 (amending Section 502(b) of the Federal Crops Insurance Act, 7 U.S.C. 1502(b)).

Fourth, the 2018 Farm Bill explicitly permits interstate transportation of hemp: Subtitle G of the 2018 Farm Bill added Sections 297A-297E of the Agricultural Marketing Act of 1946. *See* 2018 Farm Bill at § 10113; *see also* 7 U.S.C. § 1639o-s (pertinent portions of the Agricultural Marketing Act of 1946). Section 297B(f) of the 2018 Farm Bill provides, :

Nothing in this section prohibits the production of hemp in a State or the territory of an Indian tribe—(1) for which a State or Tribal plan is not approved under this section, if the production of hemp is in accordance with section 297C or ***other Federal laws (including regulations)***.

*Id.* at § 10113 (emphasis added); *see also* 7 U.S.C. § 1639p(f) (same).

The 2014 Farm Bill is such a federal law, which permits cultivation and marketing of industrial hemp if done in accordance with a state program. Both Oregon and Colorado have enacted industrial hemp programs pursuant to the 2014 Farm Bill. The hemp shipment that the appellees seized in Idaho was produced by a state-licensed cultivator in Oregon, in accordance with Oregon's industrial hemp program. As a result, the 2018 Farm Bill's prohibition on interference with the

interstate transportation of hemp applies directly to the shipment of hemp that the Idaho state police have seized.

A number of state departments of agriculture understood the new law to permit the free flowing transportation between states and issued statements on the interstate transportation of hemp in light of the 2018 Farm Bill. For instance, Pennsylvania’s Department of Agriculture explained that “[t]hrough the 2018 Farm Bill, the federal government has changed the legal status of industrial hemp . . . *ending any restrictions on import or interstate movement of hemp seed, plants, or products.*” *Pa. Dept. of Agriculture FAQ*, at Exhibit C; *see also* WV Dept. of Agriculture, *Next Steps for West Virginia Industrial Hemp*, Agriculture.WV.Gov, <https://agriculture.wv.gov/news/Pages/Next-Steps-for-West-Virginia-Industrial-Hemp.aspx>, (January 14, 2019) (“*Now farmers can grow hemp like any other cash crop, transport it across state lines and use the plant in the processing of numerous products.*”) (emphasis added), at Exhibit I.

Taken as a whole, the 2018 Farm Bill transforms hemp from an illegal narcotic into a legal crop like wheat and corn, within a regulatory framework, including the free flow of hemp and hemp products in interstate commerce.

**D. Federal Law Preempts State Laws that Would Disrupt the Transport of Federally Lawful Goods in Interstate Commerce**

It is hornbook law that the Constitution vests Congress with the power to regulate interstate commerce. U.S. Const. art. 1 cl. 8 (“The Congress shall have

Power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”); *see, e.g., Wickard v. Filburn*, 317 U.S. 111, 125 (1942) (“even if appellee’s activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce.”); *Gonzales v. Raich*, 545 U.S. 1, 18 (2005) (“*Wickard* thus establishes that Congress can regulate purely intrastate activity that is not itself ‘commercial,’ in that it is not produced for sale, if it concludes that failure to regulate that class of activity would undercut the regulation of the interstate market in that commodity.”).

It is equally well established that, when Congress acts in an area over which it has authority, states may not enforce inconsistent state laws. U.S. Const. art. 6 cl. 2 (“This Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”).

Federal law has repeatedly preempted inconsistent state law in issues of interstate commerce. *See, e.g., Pike v. Bruce Church, Inc.*, 397 U.S. 137, 138 (1970) (order from state official that prohibited interstate transportation of cantaloupes under certain conditions, made under the Arizona Fruit and Vegetable Standardization Act, invalid as an unlawful burden on interstate commerce); *Rowe v. New Hampshire Motor Transport Ass’n*, 552 U.S. 364 (2008) (invalidating Maine law

related to the motor carrier transportation of tobacco); *Montana Shooting Sports Ass'n v. Holder*, 727 F.3d 975, 982 (9th Cir. 2013) (finding that the Montana Firearms Freedom Act is preempted and invalid because it conflicts with Congress's power to regulate commodities under the commerce clause).

Through the 2014 Farm Bill, the 2018 Farm Bill, and previously the CSA, Congress has acted to regulate interstate commerce with respect to hemp. The 2018 Farm Bill does provide that states may enact a state plan for the regulation of hemp that “is more stringent than this subtitle.” *See* 2018 Farm Bill § 10113; 7 U.S.C. § 1639P(a)(3)(A)(ii). However, the law also provides that such a state regulatory plan for industrial hemp “may include a reference to a law of the State or Indian tribe regulating the production of hemp, to the extent that law *is consistent with this subchapter*.” 2018 Farm Bill § 10113; 7 U.S.C. § 1639P(a)(3)(B). Idaho state law in conflict with these federal laws is therefore preempted.

**E. The Lower Court's Opinion, if Not Overturned, Would Immediately Damage the Hemp Industry**

Hemp is a once-in-a-generation crop that is showing its economic power. In Kentucky alone the numbers are remarkable. “The state's hemp processors reported \$57.75 million in gross product sales last year [2018], compared with \$16.7 million in 2017.” *See* Hemp Industry Daily, *Sales of Hemp Products in Kentucky Surged in 2018*, HEMPINDUSTRYDAILY.COM,

<https://hempindustrydaily.com/sales-hemp-products-kentucky-surged-2018/>

(March 19, 2019), attached as Exhibit J. And, a healthy hemp industry has a positive effect on the entire economy; in 2018 Kentucky’s hemp processors spent \$23.4 million on capital improvements, and employed almost 500 people. *Id.*

In New York, the number of licensed hemp cultivators grew from 21 in late 2017 to almost 150 by early 2019. *See* Hemp Industry Daily, *White-Hot New York CBD Manufacturing Scene Undeterred By Tougher Regulations*,

HEMPINDUSTRYDAILY.COM, <https://hempindustrydaily.com/new-york-cbd-manufacturing-scene-undeterred-tougher-regulations/> (February 14, 2019),

attached as Exhibit K. As in Kentucky, the growth of the hemp industry in New York has been widespread. Two hemp companies announced plans for additional processing facilities, one in Binghamton, the other in Buffalo, “to compete with huge manufacturing investments expected from out of state.” *Id.*

Hemp has become such a popular commodity that it is seen as a potential replacement crop for American tobacco farmers. From 1992 to 2012, United States’ tobacco acreage declined from 831,231 to 342,932 acres. *See* Campaign for Tobacco-Free Kids, *The Shrinking Role of Tobacco Farming and Tobacco Product Manufacturing in the United States’ Economy*, TOBACCOFREEKIDS.ORG, <https://www.tobaccofreekids.org/assets/factsheets/0344.pdf> (last visited April 3, 2019), attached as Exhibit L. This left a void in the farming community, and over

the course of about five years, state industrial hemp programs developed under the 2014 Farm Bill showed that hemp could fill that void.

With such positive growth in such a short period of time, it is not surprising that forty states developed industrial hemp programs pursuant to the 2014 Farm Bill, with more actively considering such programs.

Understandably, both state agencies and citizens have expressed deep concern over state interference with the transportation of hemp, and the impact the resultant uncertainty has had on the hemp industry. *See, e.g.*, Letter from Alexis Taylor, Or. Dept. of Agriculture, to Sonny Perdue, Secretary of the United States Department of Agriculture (March 6, 2019) (although not mentioning the present dispute by name, stating “Oregon’s hemp industry is being subjected to unnecessary transportation and commerce restrictions and has examples to provide if needed”), attached as Exhibit M. The USDA held a listening session in March 2019, to allow public comment on a program to regulate hemp. *See* USDA, *2018 Farm Bill Listening Session on Domestic Hemp Production Program*, ZOOM.US, <https://zoom.us/recording/play/4joqzWH50TVZTi3oGz2YymTHmBmwcSJF4SeREeOMXXzv-ZYMVSvqaA-XYV6hiKZt?continueMode=true> (a video recording of the listening session) (last visited April 3, 2019), attached as Exhibit N. A number of participants, while not directly discussing this case, raised the issue of interstate transportation of hemp; for instance, a representative from the

Pennsylvania Department of Agriculture “encourage[d] USDA to quickly provide national standards for laboratory testing procedures, including plant sampling and certification of laboratories. ***This is imperative for interstate commerce . . .***

Growers are planting in multiple states and need consistency, especially when shipping product to processing facilities that may require transport across state lines.” *Id.* (emphasis added); *see id.* (North Dakota’s Agriculture Commission, Doug Goehring: “We feel the true place for USDA to assist states is in matters regarding ***interstate commerce and international markets.***”) (emphasis added).

These concerns are well founded. During the USDA listening session, Courtney Moran, of Earth Law, LLC, who worked with the offices of Senators McConnell and Wyden on the Hemp Farming Act of 2018 (provisions of which were incorporated into the 2018 Farm Bill) provided this assessment: “we continue to learn of hemp crop and product seizures by law enforcement for simple transportation of the commodity. As a result, ***many trucking and shipping companies are not offering hemp business owner shipping services.***” *Id.* (emphasis added).

If this Court upholds the lower court’s denial of Big Sky’s motion for a temporary restraining order and preliminary injunction, hemp-related interstate commerce could grind to a halt because it would give a green light to seizures like the one in Idaho at issue in this case. This would restrain the growth of cultivators,

processors, and distributors throughout the country. It would deter transportation companies from providing services to hemp producers for fear their drivers would be arrested, as in this case. The risks to businesses in the hemp industry would simply be too great, especially in light of the fact the truck driver here was arrested and charged with a felony. This is the very opposite of what Congress intended in the 2018 Farm Bill.

### III. CONCLUSION

For all the foregoing reasons, *amicus curiae* ATACH urges this Court to reverse the decision of Magistrate Judge Bush, and remand to the District Court with instructions to issue a preliminary injunction prohibiting the state of Idaho from continuing to interfere in the interstate transportation of industrial hemp.

DATED: April 3, 2019

Respectfully submitted,

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**COMBINED CERTIFICATIONS**

The undersigned hereby certifies the following:

**CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH  
FED. R. APP. P. 32**

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(b) because it contains 3,978 words, excluding the parts of the Brief exempted by Fed. R. App. P. 32(f). This brief also complies with the typeface and typestyle requirements of Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 14 point, Times New Roman font.

**STATEMENT OF RELATED CASES**

Pursuant to Circuit Rule 28-2.6, the American Trade Association of Cannabis and Hemp states it is not aware of any related cases pending in this Court.

By: s/ David E. Landau  
David E. Landau  
*Attorney for Amicus Curiae American Trade  
Association of Cannabis and Hemp*

Dated: April 3, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on April 3, 2019, I electronically filed the foregoing Motion for Leave to Appear as *Amicus Curiae* and supporting brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit, and on the following attorneys of record, by using the Court's electronic filing system:

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# **EXHIBIT A**



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# 'Monumental' Meeting Culminates With Call for National Marijuana Business Standards

Published July 28, 2015

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**By John Schroyer**



Chalk up another first for the cannabis industry.

Several marijuana business owners were able to sit down and talk seriously with 20

attorneys general from across the country last week about issues surrounding the cannabis industry, which some participants called a “monumental” development and a “watershed moment.”

Not only was the meeting arguably historic given the involvement of top state-level legal officials, but it culminated in an agreement to develop something the cannabis industry sorely needs: national cannabis business standards.

The group – which met in Hawaii – agreed to start work on a “Code of Responsible Practices” to help govern cannabis companies and promote the trade, even though many of the attorneys general hailed from states without legal MMJ or recreational marijuana.

Michael Bronstein, the lead consultant for the American Association for Cannabis and Hemp, said the intent is to develop an industrywide governing body that will help legitimize the cannabis industry in coming years – and assuage government fears at the same time.

“The idea is to impose standards so that...regulators feel comfortable with the marketplace practices that are going on, and that will allow for a safe market expansion, which is what attorneys general are looking for,” Bronstein said.

The conference was hosted by the Conference of Western Attorneys General, and its executive director, Karen White, said the group’s members would “like to see standards. We’d like to see regulations. We’d like to see protocols.”

White added that it’s very much in the industry’s own best interests to start working on such standards.

“In terms of the direction the (attorneys general) are going, what we are saying is, give us your best suggestions. Get yourselves organized. Get a self-regulatory body in place, or the alternative may not be as appealing to you,” White said.

Bronstein added that the code would be similar to standards used in other industries, such as the beverage and pharmaceutical sectors, to aid in self-policing when it comes to issues such as production practices.

Topics to be tackled by the code include everything from childproof packaging and marketing guidelines to manufacturing standardization and testing guidelines.

A committee of public officials and industry representatives will work together to develop the code.

Some of the attendees at the meeting, which was hosted by the Conference of Western Attorneys General, included MMJ America’s Jake Salazar, Medically

Correct's Bob Eschino, and High There's Todd Mitchem, along with representatives from the Coalition for Responsible Cannabis Production and the American Association for Cannabis and Hemp.

The attorneys general at the conference hail from Alaska, Arizona, Colorado, Florida, Guam, Hawaii, Iowa, Mississippi, Montana, Nebraska, New Mexico, North Dakota, the northern Mariana Islands, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Vermont and Wyoming. There were also representatives from the attorneys general offices of Idaho and Michigan.

MMJ is legal in about half of those states, and recreational marijuana is legal in three.

Mitchem called the conference "monumental," saying the fact that attorneys general from states where cannabis isn't even legal are willing to speak to those in the industry is yet another indicator that the marijuana movement is making strides.

"We're getting to this stage where if we really want to be viable at the top levels of law enforcement and government, and if we want a seat at the table, we've got to get to a place where we thoughtfully set standards that protect consumer safety and public safety," Mitchem said. "That's really powerful. Our industry hasn't been allowed to do that a lot."

Mitchem suggested that the Code of Responsible Practices could also lay the framework for regulations to be adopted by the next states to legalize either MMJ or adult-use cannabis, most likely in 2016.

"We hope that people will see us raising the bar, so when they look to legalize, they'll say, 'Here are some standards and processes that we could look at to guide us so we don't make a big mistake,'" Mitchem said.

Eschino added that he thinks industry leaders working hand-in-hand with government officials on appropriate regulations for the industry is simply the logical next step, and said the best thing companies can do is get on board.

"If you're not at the table, you're being told what to do," Eschino said.

He added that such a code will likely make it simpler for cannabis companies to expand nationally if there are uniform standards set up across the entire country.

"Every state seems to be on a different page, and some consistency across the states will make it better for the states and for the companies in those different states," Eschino said. "So for the companies looking to branch out, it's a good thing."

The challenge will be convincing businesses to adopt the guidelines and standards.

A joint effort (<https://mjbizdaily.com/americans-for-safe-access-begins-certifying-medical-marijuana-companies/>) by Americans for Safe Access and the American Herbal Products Association to create industrywide standards has gained some traction, but it has also run into difficulties on this front.

Many businesses are reluctant to pay to meet standards and participate in these types of programs.

For companies concerned about how conforming to a new Code of Responsible Practices may cut into their bottom lines, Mitchem said that establishing such uniformity will likely save everyone money in the long run.

Eschino said Colorado companies are already dealing with super-strict rules. The choice, they both reiterated, is whether or not companies would like to have a say in the regulations they have to comply with.

“Ultimately what’s going to happen is either we are... going to figure out these things together, or regulators will do it for us,” Mitchem said.

Mitchem also said that the sense he got from the 20 attorneys general is that legalization – in some form or another – already feels like a foregone conclusion to them.

“We didn’t get questions about, ‘Why is this good for my state?’ All of the questions were about consumer safety, consumer protection, and helping build standards,” Mitchem said. “No one, even from the most conservative states, was pushing back on whether or not it should be legal. That’s a big movement change.”

Bronstein agreed and said he hopes the Hawaii conference is a sign of further collaboration down the road between cannabis companies and government officials.

“This felt like a watershed moment, and there were attorneys general who said that to me, in those exact words, because it’s not that people are saying, ‘Should

there or should there not be an industry?" Bronstein said. "People are now saying, 'How do we make the industry better for the public and better for everyone?'"

A full list of committee members will likely be announced in a few weeks, Bronstein said. There is no timeline yet for when the code may be written, Mitchem said, adding that the project is ongoing.

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11 comments on “‘Monumental’ Meeting Culminates With Call for National Marijuana Business Standards”

Rick Fague (<http://bankgrouppayments.com>) on July 28th, 2015 - 4:50pm  
(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136375>)

Excellent article, a watershed moment indeed. The conversation isn't about why MJ anymore, so much as it is about how to do it correctly.

Standardization helps, so does fostering unity through professional associations promoting professional standards.

These are the core beliefs of our company as well, which is why we're working so hard on offering compliant products and services to the industry.

Are some of the laws and requirements overly strict? Sure, considering we're talking about a plant people have used safely for thousands of years. But the only way to help shape those laws and regulations is for the industry to come together and make our collective voices heard.

This meeting of the AG's and industry associations is a very hopeful step in the right direction.

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Seth Tyrssen  
(<http://TempleofAnkh'n'Abis/ChurchoftheSacredHerb> (Facebook)) on July 28th, 2015 - 5:43pm

<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136382>

A good step in the right direction. Our own suggestions would be the establishment of a Marijuana Industry Council, that is NOT in the hands of lawyers and government. See our newsletter containing that information on our Facebook page, "Temple of Ankh'n'Abis/Church of the Sacred Herb."

REPLY

**Adam Mintz on July 28th, 2015 - 6:02pm**

<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136391>

These guys are a bit late to the game, but great intention!

<http://www.cannabisstandards.com/>  
(<http://www.cannabisstandards.com/>)

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**Bryan Booren on July 28th, 2015 - 9:37pm**

<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136418>

Government control??? Lets look at what the food and pharmaceutical industry is! is it safe? the government would like you to believe so. Lets remember the drug company's have to help to suppress mmj legalization. And the AG.'s are stepping in with there hands out..don't trust the attorneys to make more control..yes we need standards but not in the hands of government.I find it sick that any government would make money on some ones needs medically for cannabis .. WE NEED NO MORE CONTROL...

REPLY

**Brett Roper**

**(<http://www.medicinemantechologies.com>) on July 29th, 2015 - 9:35am**

**(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136499>)**

Hmmm ... a little odd in thinking that a group of attorneys would provide for national cannabis business standards? While I would like to see some sort of standardization of best practices the recent rules and legislative initiatives as deployed by states entering the space offer enough of a challenge for those trying to navigate the points of entry into this industry. Perhaps a best practices initiative 1st and then guidelines once a best practices measure gains some traction? Financial requirements are pretty straight forward in my mind, audited or otherwise in consideration of taxation and 280E elements.

REPLY

**Garry Robitaille on July 29th, 2015 - 11:23am**

**(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136504>)**

Standards are nice. But it sounds like this was a meeting of big players trying to grab the market. Small mom an pops are the lifeblood of this industry.

REPLY

**Orville Silvera on July 29th, 2015 - 12:36pm**

**(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136509>)**

THAT THE INDUSTRY MUST ABIDE BY STANDARDS, IS A NO-BRAINER.

As chairman of the Growers and Producers Association,

here in Jamaica, I can attest to this need for the worldwide market.

Mr. Michael Bronstein, Our organization G(F)GPA, is interested in making contact with you. My email address [kubwemoja@gmail.com](mailto:kubwemoja@gmail.com) (<mailto:kubwemoja@gmail.com>).

Looking forward to hearing from you ASAP. Hoping you receive this mail, maybe via a message from the comments department.

[REPLY](#)

**km cholewa on July 29th, 2015 - 5:47pm**  
(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136540>)

According to this article, almost 1/2 (19) of the country's state attorney generals were at this conference. Such a convergence, it seems, would have drawn considerably more national attention. Is this accurate?

[REPLY](#)

**Lawrence Goodwin on July 29th, 2015 - 11:09pm**  
(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136595>)

Thank you so much, Marijuana Business Daily, for your continuous superb coverage. I love CWAG Exec. Director Karen White for being so stern. Implementing Ms. White's vision is really simple. The U.S. Congress must completely remove the word "marihuana" from Schedule I of the 1970 Controlled Substances Act, and not simply "reschedule," which rips the heart right out of the entire cannabis prohibition. Rename the federal agency the Bureau of Alcohol, Cannabis, Tobacco and Firearms and finance the new division with a tiny tax on all sales made possible by the plants' raw materials. Groups like Women Grow should have a central role in the

subsequent creation of said “standards.” Usually, in the business world, the ladies know best how to be truly compassionate while pursuing decent incomes for all. And it’d be the height of irony, since belligerent men have suppressed the cannabis industry for so long by demonizing seedless, female flowers.

REPLY

km cholewa on [July 30th, 2015 - 12:46am](#)  
(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136606>)

Nevermind. Read it wrong.

REPLY

Carter Baird  
(<http://www.cannabisqualityengineering.com>) on [July 31st, 2015 - 4:49pm](#)  
(<https://mjbizdaily.com/monumental-meeting-culminates-with-call-for-national-marijuana-business-standards/#comment-136933>)

It is in the best interest of the industry itself to define standards because they facilitate trade. The Pot Scientist (an active member of the AHPA cannabis committee) advocated for standardization after the NCIA conference in Denver. See video here:

<https://youtu.be/sFFcX2fhzZw>  
(<https://youtu.be/sFFcX2fhzZw>)

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# **EXHIBIT B**

## FDA Statement

# Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to advance agency's continued evaluation of potential regulatory pathways for cannabis-containing and cannabis-derived products

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## For Immediate Release

April 2, 2019

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## Statement

In recent years, we've seen a growing interest in the development of therapies and other FDA-regulated consumer products derived from cannabis (*Cannabis sativa* L.) and its components, including cannabidiol (CBD). This interest spans the range of product categories that the agency regulates. For example, we've seen, or heard of interest in, products containing cannabis or cannabis derivatives that are marketed as human drugs, dietary supplements, conventional foods, animal foods and drugs, and cosmetics, among other things. We also recognize that stakeholders are looking to the FDA for clarity on how our authorities apply to such products, what pathways are available to market such products lawfully under these authorities, and how the FDA is carrying out its responsibility to protect public health and safety with respect to such products.

Interest in these products increased last December when Congress passed the Agriculture Improvement Act of 2018 (the 2018 Farm Bill). Among other things, this law established a new category of cannabis classified as "hemp" – defined as cannabis and cannabis derivatives with extremely low (no more than 0.3 percent on a dry weight basis) concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC). The 2018 Farm Bill removed hemp from the Controlled Substances Act, which means that it is no longer a controlled substance under federal law.

At the same time, Congress explicitly preserved the FDA's current authority to regulate products containing cannabis or cannabis-derived compounds under the Federal Food, Drug, and Cosmetic Act (FD&C Act) and section 351 of the Public Health Service Act. In doing so, Congress recognized the agency's important public health role with respect to all the products it regulates.

This allows the FDA to continue enforcing the law to protect patients and the public while also providing potential regulatory pathways, to the extent permitted by law, for products containing cannabis and cannabis-derived compounds.

When the 2018 Farm Bill became law, I issued a [statement \(/NewsEvents/Newsroom/PressAnnouncements/ucm628988.htm\)](#) explaining the FDA's current approach to these products and our intended next steps. Consistent with the approach and commitments described in that statement, today the FDA is announcing a number of important new steps and actions to advance our consideration of a framework for the lawful marketing of appropriate cannabis and cannabis-derived products under our existing authorities. These new steps include:

- A [public hearing \(https://www.federalregister.gov/documents/2019/04/03/2019-06436/scientific-data-and-information-about-products-containing-cannabis-or-cannabis-derived-compounds\)](#) on May 31, as well as a broader opportunity for written public comment, for stakeholders to share their experiences and challenges with these products, including information and views related to product safety.
- The formation of a high-level internal agency working group to explore potential pathways for dietary supplements and/or conventional foods containing CBD to be lawfully marketed; including a consideration of what statutory or regulatory changes might be needed and what the impact of such marketing would be on the public health.
- Updates to our [webpage \(/NewsEvents/PublicHealthFocus/ucm421168.htm\)](#) with answers to frequently asked questions on this topic to help members of the public understand how the FDA's requirements apply to these products.
- The issuance of multiple warning letters to companies marketing CBD products with egregious and unfounded claims that are aimed at vulnerable populations.

### *Public Hearing*

The public hearing will give stakeholders an opportunity to provide the FDA with additional input relevant to the agency's regulatory strategy related to existing products, as well as the lawful pathways by which appropriate products containing cannabis or cannabis-derived compounds can be marketed, and how we can make these legal pathways more predictable and efficient. We hope to gain additional information and data for the FDA to consider with respect to products containing cannabis and cannabis-derived compounds, including CBD.

As we've stated before, we treat products containing cannabis or cannabis-derived compounds as we do any other FDA-regulated products. Among other things, the FDA requires a cannabis product (hemp-derived or otherwise) that's marketed with a claim of therapeutic benefit to be approved by the FDA for its intended use before it may be introduced into interstate commerce. Additionally, it is unlawful to introduce food containing added CBD, or the psychoactive compound THC, into interstate commerce, or to market CBD or THC products as dietary supplements. This is because CBD and THC are active ingredients in FDA-approved drug products and were the subject of substantial clinical investigations before they were marketed as food. In such situations, with certain exceptions that are not applicable here, the only path that the FD&C Act allows for such substances to be added to foods or marketed as dietary supplements is if the FDA first issues a regulation, through notice-and-comment rulemaking, allowing such use.

While the availability of CBD products in particular has increased dramatically in recent years, open questions remain regarding the safety considerations raised by their widespread use. For example, during its review of the marketing application for [Epidiolex \(/NewsEvents/Newsroom/PressAnnouncements/ucm611046.htm\)](#) – a purified form of CBD that the FDA approved in 2018 for use in the treatment of certain seizure disorders – the FDA identified certain safety risks, including the potential for liver injury. These are serious risks that can be managed when the product is taken under medical supervision in accordance with the FDA-approved labeling for the product, but it is less clear how this risk might be managed in a setting where this drug substance is used far more widely, without medical supervision and not in accordance with FDA-approved labeling. There are also unresolved questions regarding the cumulative exposure to CBD if people access it across a broad range of consumer products, as well as questions regarding the intended functionality of CBD in such products. Additionally, there are open questions about whether some threshold level of CBD could be allowed in foods without undermining the drug approval process or diminishing commercial incentives for further clinical study of the relevant drug substance.

It's critical that we address these unanswered questions about CBD and other cannabis and cannabis-derived products to help inform the FDA's regulatory oversight of these products – especially as the agency considers whether it could be appropriate to exercise its authority to allow the use of CBD in dietary supplements and other foods. As I stated in December, the FDA would only consider this path if the agency were able to determine that all other requirements in the FD&C Act are met, including those required for food additives or new dietary ingredients.

As part of the public hearing and related public comment period, the agency is interested in whether there are particular safety concerns that we should be aware of as we consider the FDA's regulatory oversight and monitoring of these products. For example, we're seeking comments, data and information on a variety of topics including: what levels of cannabis and cannabis-derived compounds cause safety concerns; how the mode of delivery (e.g., ingestion, absorption, inhalation) affects the safety of, and exposure to, these compounds; how cannabis and cannabis-derived compounds interact with other substances such as drug ingredients; and other questions outlined in the hearing announcement.

Additionally, we're interested in how the incentives for, and the feasibility of, drug development with CBD and other cannabis-derived compounds would be affected if the commercial availability of products with these compounds, such as foods and dietary supplements, were to become significantly more widespread. We don't want companies to forgo research that might support approval through the FDA's drug review process, which could potentially lead to important safe and effective therapies. We also don't want patients to forgo appropriate medical treatment by substituting unapproved products for approved medicines used to prevent, treat, mitigate or cure a particular disease or condition. For example, in the case of Epidiolex, the adequate and well-controlled clinical studies that supported its approval, and the assurance of manufacturing quality standards, can provide prescribers confidence in the drug's uniform strength and consistent delivery that support appropriate dosing needed for treating patients with these complex and serious epilepsy syndromes. It's important that we continue to assess whether there could be medical ramifications if patients choose to take CBD to treat certain diseases at levels higher or lower than studied in well-controlled clinical studies.

*FDA Working Group*

We hope that information we receive through the public hearing this May, as well as through the written public comment process, will help inform our consideration of these and other important scientific, technical and policy questions. Given the importance of these questions, and the significant public interest with respect to CBD in particular, we're forming a high-level internal agency working group to explore potential pathways for dietary supplements and/or conventional foods containing CBD to be lawfully marketed. Given the importance of this issue, I've asked Principal Deputy Commissioner Amy Abernethy, M.D., Ph.D. and Principal Associate Commissioner for Policy Lowell Schiller, to co-chair the group and charged them with considering what options might be appropriate under our current authorities, in view of all the evidence before us and our agency's fundamental public health mission. I'm also asking the group to consider whether there are legislative options that might lead to more efficient and appropriate pathways than might be available under current law – again, with the same science-based, public health focus that the FDA endeavors to bring to all matters before it. This is a complicated topic and we expect that it could take some time to resolve fully. Nevertheless, we're deeply focused on this issue and committed to continuing to engage relevant stakeholders as we consider potential paths forward. The working group plans to begin sharing information and/or findings with the public as early as Summer 2019.

### *New Compliance Actions*

We'll continue to use our authorities to take action against companies illegally selling these types of products when they are putting consumers at risk. I am deeply concerned about any circumstance where product developers make unproven claims to treat serious or life-threatening diseases, and where patients may be misled to forgo otherwise effective, available therapy and opt instead for a product that has no proven value or may cause them serious harm.

Today, the FDA is announcing that it has issued warning letters, in collaboration with the Federal Trade Commission, to three companies – **[Advanced Spine and Pain LLC \(d/b/a Relievus\) \(/ICECI/EnforcementActions/WarningLetters/ucm634781.htm\)](#)**, **[Nutra Pure LLC \(/ICECI/EnforcementActions/WarningLetters/ucm634776.htm\)](#)** and **[PotNetwork Holdings Inc. \(/ICECI/EnforcementActions/WarningLetters/ucm634738.htm\)](#)** – in response to their making unsubstantiated claims related to more than a dozen different products and spanning multiple product webpages, online stores and social media websites. The companies used these online platforms to make unfounded, egregious claims about their products' ability to limit, treat or cure cancer, neurodegenerative conditions, autoimmune diseases, opioid use disorder, and other serious diseases, without sufficient evidence and the legally required FDA approval. Examples of claims made by these companies include:

- “CBD successfully stopped cancer cells in multiple different cervical cancer varieties.”
- “CBD also decreased human glioma cell growth and invasion, thus suggesting a possible role of CBD as an antitumor agent.”
- “For Alzheimer’s patients, CBD is one treatment option that is slowing the progression of that disease.”
- “Fibromyalgia is conceived as a central sensitization state with secondary hyperalgesia. CBD has demonstrated the ability to block spinal, peripheral and gastrointestinal mechanisms responsible for the pain associated with migraines, fibromyalgia, IBS and other related disorders.”
- “Cannabidiol May be Effective for Treating Substance Use Disorders.”

- “CBD reduced the rewarding effects of morphine and reduced drug seeking of heroin.”
- “CBD may be used to avoid or reduce withdrawal symptoms.”

I believe these are egregious, over-the-line claims and we won't tolerate this kind of deceptive marketing to vulnerable patients. The FDA continues to be concerned about the proliferation of egregious medical claims being made about products asserting to contain CBD that haven't been approved by the FDA, such as the products and companies receiving warning letters today. CBD is marketed in a variety of product types, such as oil drops, capsules, syrups, teas and topical lotions and creams. Often such products are sold online and are therefore available throughout the country.

Selling unapproved products with unsubstantiated therapeutic claims can put patients and consumers at risk. These products have not been shown to be safe or effective, and deceptive marketing of unproven treatments may keep some patients from accessing appropriate, recognized therapies to treat serious and even fatal diseases. Additionally, because they are not evaluated by the FDA, there may be other ingredients that are not disclosed, which may be harmful.

As our actions today make clear, the FDA stands ready to protect consumers from companies illegally selling CBD products that claim to prevent, diagnose, treat, or cure serious diseases, such as cancer, Alzheimer's disease, psychiatric disorders and diabetes. The agency has and will continue to monitor the marketplace and take enforcement action as needed to protect the public health against companies illegally selling cannabis and cannabis-derived products that can put consumers at risk and are being marketed and distributed in violation of the FDA's authorities.

Ultimately, we remain committed to exploring an appropriate, efficient and predictable regulatory framework to allow product developers that meet the requirements under our authorities to lawfully market these types of products. The actions we're announcing today will allow us to continue to clarify our regulatory authority over these products and seek input from a broad range of stakeholders and examine a variety of approaches and considerations in the marketing and regulation of cannabis or cannabis-derived products, while continuing to protect the public's health and safety.

The FDA, an agency within the U.S. Department of Health and Human Services, protects the public health by assuring the safety, effectiveness, and security of human and veterinary drugs, vaccines and other biological products for human use, and medical devices. The agency also is responsible for the safety and security of our nation's food supply, cosmetics, dietary supplements, products that give off electronic radiation, and for regulating tobacco products.

###

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# **EXHIBIT C**

## Frequently Asked Questions

*The following information is provided as a guide and is not a legal interpretation of the Act.*

### **Q: What is industrial hemp?**

**A:** Industrial hemp is a versatile plant that has been used for thousands of years as a source of fiber and food. While grown commercially in the United States until after World War II, industrial hemp became regulated along with marijuana and its cultivation was prohibited.

### **Q: What is the difference between industrial hemp and marijuana?**

**A:** Industrial hemp and marijuana are different varieties of the same species of plant, *Cannabis sativa*. Marijuana is cultivated because of its production of the psychoactive plant chemical delta-9 tetrahydrocannabinol, or THC. Industrial hemp is cultivated for fiber, seed and other purposes, and federal and state law requires that the concentration of THC must be less than 0.3% in industrial hemp.

### **Q: Why is Pennsylvania allowing growth of industrial hemp now?**

**A:** Through the 2018 Farm Bill, the federal government has changed the legal status of industrial hemp. It has been removed from regulation under the Controlled Substance Act, ending any restrictions on import or interstate movement of hemp seed, plants, or products. However, the 2018 Farm Bill still requires that every site where industrial hemp is grown be registered with the state or federal government under a program with requirements for inspection and testing.

### **Q: What is the difference between Pennsylvania's industrial hemp program and the Pennsylvania medical marijuana program?**

**A:** The two programs are separate and authorized by different Acts and Departments. Industrial hemp contains virtually no THC (less than 0.3%). Both plants do contain levels of other compounds of interest, for example cannabidiols (CBDs). The Medical Marijuana Act requires all the cannabis for medical use to be grown at a permitted growing/processing facility and the products to be tested before being sold in order to meet specific requirements for purity and standardized chemical concentrations. Industrial hemp growers must have a permit from the PA Department of Agriculture.

**A:** There are thousands of uses for industrial hemp. Some of those include: fibrous stem products (paper products, molded plastics, textiles, construction materials, etc.); seed products (food products for human consumption, culinary oil, body care products, fuel, etc.) and floral/foiar products (CBD extracts). Part of the development of an industrial hemp industry is to determine what the most appropriate uses are for Pennsylvania in terms of growth, production and processing of hemp.

**Q: Who can legally grow hemp in Pennsylvania?**

**A:** Industrial hemp may be grown or cultivated in Pennsylvania by individuals with a valid permit from the PA Department of Agriculture.

**Q: Has hemp been planted in Pennsylvania?**

**A:** During the 2018 season, 33 permit holders planted and grew approximately 580 acres of industrial hemp. This was the second year that hemp was grown in the commonwealth after having been banned for approximately 80 years. PDA will be accepting additional applications for the 2019 growing season.

**Q: How can I apply to grow hemp in Pennsylvania?**

**A:** Interested persons or businesses should carefully review the parameters for permit approval and fill out the [2019 Industrial Hemp Program Permit Application](#) ([/Plants\\_Land\\_Water/industrial\\_hemp/Documents/2019%20Revised%20Application\\_1.22.2019.pdf](#)).

**Q: Will there be fees for the participants of the project?**

**A:** Yes. PDA has established fees to cover the costs of administering the program, including obtaining a permit, covering inspections, sampling and necessary laboratory testing of the crop as required by the permit. Additionally, other agencies may charge fees for their services, such as FBI criminal history background checks, or inspection and testing requirements of other applicable statutes.

**Q: Is the application fee refundable?**

**A:** No. The law enabling industrial hemp production in Pennsylvania gave the Department of Agriculture the right to establish fees to cover the costs of administering the program. The use of these "user fees" is restricted to covering the costs incurred by the agency to administer the program.

**A:** There is no limit to the number of permits, or the amount of hemp that will be permitted for the 2019 growing season. Any application that meets all requirements of the program will be approved.

**Q: How many acres will be approved for each project?**

**A:** There is no limit to the size of plantings covered under a permit. Cost of obtaining a permit increases with the number of properties on which hemp is grown.

**Q: I had an industrial hemp permit in 2018. Do I need to renew my permit?**

**A:** Yes. Permits expire on December 31<sup>st</sup> of each year; renewal is required each year. Changes are possible at the time of renewal, but may result in additional cost for renewal.

**Q: How can a participant obtain industrial hemp seed?**

**A:** Hemp seed may be obtained from other countries, from other states, or from Pennsylvania seed dealers. The grower is responsible for obtaining seed; the Department is not involved in that process. The Department does encourage growers to search for certified seed, if available.

**Q: Can I sell the hemp from my project? Outside of the commonwealth?**

**A:** Yes, products produced from hemp grown in Pennsylvania may be sold in Pennsylvania or interstate, as long as the receiving state has no prohibitions on the sale. All products or substances distributed or sold must meet all state and federal laws and regulations that are applicable to the commodity.

**Q: Are hemp processors required to be licensed in PA?**

**A:** At this time, the Department of Agriculture does not require a special license for hemp processors. Producers of hemp food products would need to be registered as a Food Establishment with PDA's Bureau of Food Safety ([/consumer\\_protection/FoodSafety/manufacturing-packing-holding-distribution/commercial-food-establishments/Pages](http://consumer_protection/FoodSafety/manufacturing-packing-holding-distribution/commercial-food-establishments/Pages)).

**Q: What products/uses of industrial hemp will be permitted in PA?**

**A:** Industrial hemp products are regulated by several different federal and state mandates, which can be confusing. It is the responsibility of the permit holder to ensure any products or substances derived from industrial hemp meet the requirements of all state and federal laws and regulations.

**A.** Not at this time. Before any ingredient can be sold or distributed as part of animal feed, the ingredient must be Generally Recognized as Safe (GRAS) by FDA and/or listed as a "recognized feed ingredient" by the American Association of Feed Control Officials (AAFCO). As part of the approval process, testing is currently being conducted to ensure the safety and nutritional value of hemp. Growers are advised that any research project that involves feeding hemp products to their own animals may result in regulatory restrictions in the sale of products (meat, milk, eggs, etc.) from these animals.

**Q: What about cannabinoids, like CBD?**

**A:** Cannabinoids, such as cannabidiol (CBD), are a group of chemicals concentrated in the female flower of the cannabis plant. While they are chemically similar to THC, they do not have the psychoactive effects of THC. PDA does permit growth of hemp for the purpose of producing CBD. However, it will be the permit holder's responsibility to ensure that any CBD extraction or the production of CBD-containing substances complies with all laws and regulations.

To further clarify, the following responses are to questions listed on FDA's website:

**added?**

A. No. Under section 301(II) of the Federal Food Drug & Cosmetic Act (FD&C Act or the Act), it is prohibited to introduce or deliver for introduction into interstate commerce any food (including any animal food or feed) to which has been added a substance which is an active ingredient in a drug product that has been approved under 21 U.S.C. § 355 (section 505 of the Act) or a drug for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public. There are exceptions, including when the drug was marketed in food before the drug was approved or before the substantial clinical investigations involving the drug had been instituted or, in the case of animal feed, that the drug is a new animal drug approved for use in feed and used according to the approved labeling. However, based on available evidence, FDA has concluded that none of these is the case for THC or CBD. FDA has therefore concluded that it is a prohibited act to introduce or deliver for introduction into interstate commerce any food (including any animal food or feed) to which THC or CBD has been added. FDA is not aware of any evidence that would call into question these conclusions. Interested parties may present the agency with any evidence that they think has bearing on this issue. Our continuing review of information that has been submitted thus far has not called our conclusions into question.

**15. Will FDA take enforcement action regarding THC and CBD products that are marketed as dietary supplements? What about foods to which THC and CBD has been added?**

A. When a product is in violation of the FD&C Act, FDA considers many factors in deciding whether or not to initiate an enforcement action. Those factors include, among other things, agency resources and the threat to the public health. FDA also may consult with its federal and state partners in making decisions about whether to initiate a federal enforcement action.

**Q: What happens if the industrial hemp grown tests higher than the 0.3% permitted for THC content?**

**A:** By definition, the plants are no longer considered industrial hemp. Crop destruction could result. If it is determined that high THC levels were produced intentionally or maliciously, growers may face criminal penalties.

**A:** To save seed for replanting, growers would need to obtain written permission from the seed source. In addition, the seed must be grown in conditions that meet the requirements of the Pennsylvania Seed Act.

**Q: Can I grow transplants/cuttings for resale?**

**A:** Growers would need to obtain written permission for replication from the plant variety source and would also need to receive a Nursery Certificate

([/Plants\\_Land\\_Water/PlantIndustry/plant-health/PlantMerchant/Pages/default.aspx](/Plants_Land_Water/PlantIndustry/plant-health/PlantMerchant/Pages/default.aspx)).

**Q: What does Industrial hemp need to grow?**

**A:** Two years of research projects showed that good soil fertility - with adequate nitrogen, proper planting depth, and pre-plant weed control - is important for a good crop. Growers also need to evaluate available harvesting options, because many combines are not designed for use with this crop, which is well known for its strong fiber and stalks.

**Q: If approved to receive an industrial hemp permit, what are my responsibilities?**

**A:** Persons or institutions receiving permits to grow industrial hemp must follow the requirements outlined in their permit/contract with PDA. This includes payment of fees, cooperation with onsite inspections, and destruction of hemp found growing in unregistered sites that are linked to the permit.

*Updated 1.22.19*

# **EXHIBIT D**



## NATIONAL CONFERENCE of STATE LEGISLATURES

# State Industrial Hemp Statutes

2/1/2019

*PLEASE NOTE: NCSL cannot provide advice or assistance to private citizens or businesses regarding industrial hemp laws or other related matters. Please consult your state department of agriculture or a private attorney.*

## Introduction



State legislatures have taken action to establish state licensed industrial hemp programs promote hemp as an agricultural commodity in recent years. A wide range of products, including fibers, textiles, paper, construction and insulation materials, cosmetic products, animal feed, food, and beverages all may use hemp.

While hemp and marijuana products both are species of the cannabis plant, hemp is typically distinguished by its lower concentration of tetrahydrocannabinol (THC).

## Federal Action

The 2018 Farm Bill changed federal policy regarding industrial hemp, including the removal of hemp from the Controlled Substances Act and the consideration of hemp as an agricultural product. The bill legalized hemp under certain restrictions and expanded the definition of industrial hemp from the last 2014 Farm Bill. The bill also allows states and tribes to submit a plan and apply for primary regulatory authority over the production of hemp in their state or in their territory. A state plan must include certain requirements, such as keeping track of land, testing methods, and disposing plants or products that exceed the allowed THC concentration.

Previously, the 2014 Farm Bill defined industrial hemp and allowed for state departments of agriculture or universities to grow and produce hemp as part of research or pilot programs. Specifically, the law allowed universities and state departments of agriculture to cultivate industrial hemp if:

“(1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and

(2) the growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.”

The U.S. Department of Agriculture, in consultation with the U.S. Drug Enforcement Agency (DEA) and the U.S. Food and Drug Administration, released a [Statement of Principles on Industrial Hemp](#) in the Federal Register on Aug 12, 2014, on the applicable activities related to hemp in the 2014 Farm Bill.

## State Action

State policymakers have taken action to address various policy issues — the definition of hemp, licensure of growers, regulation and certification of seeds, state-wide commissioning of growers, and the legal protection of growers. At least 41 states have enacted legislation to establish industrial hemp cultivation and production programs.

## 2018 Legislation Update

At least 38 states considered legislation related to industrial hemp in 2018. These bills ranged from clarifying existing laws to establishing new licensing requirements and programs. At least six states — Alaska, Arizona, Kansas, Missouri, New Jersey

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universities and the programs, in other states coordination is optional. From 2015 to 2016, seven states enacted legislation to create hemp research or pilot programs, including Pennsylvania (H.B. 976) and Hawaii (S.B. 2659).

While industrial hemp research and pilot programs typically focus on studying the cultivation, processing for certain products and economic impacts of hemp, some states have specific guidelines and intended goals. Here are some examples of unique state research goals:

- **Colorado** S.B. 184 (2014) created an Industrial Hemp Grant Research Program for state universities to research and develop hemp strains that are best suited for industrial applications and develop new seed strains.
- **Colorado** S.B. 109 (2017) directed the commissioner of agriculture to create a group to study the feasibility of hemp products' use in animal feed.
- **Kentucky's** industrial hemp research program studies the environmental benefit or impact of hemp, the potential use of hemp as an energy source or biofuel, and the agronomy research being conducted worldwide relating to hemp.
- The **North Carolina** Hemp Commission studies the best practices for soil conservation and restoration in collaboration with two state universities.

### Licensing, Registration and Permitting

To comply with state regulations for commercial and research programs, growers must be licensed, registered or permitted with the state agency overseeing the program. Requirements for registration, licenses and permits might include:

- Criminal background checks.
- Periodic renewals, usually every one to three years.
- Registering the location or Global Positioning System (GPS) coordinates of grow sites.
- Record keeping and reporting any sales or distributions including to whom it was sold or distributed, including processors.
- Documentation from the state agency or institution of higher education to prove the grower is participating in an approved program.

The state agencies overseeing these programs are typically authorized to conduct inspections, test the plants and records. State agencies may revoke licenses and impose civil and criminal penalties against growers who violate regulations.

### Seed Certification and Access

Access to viable seed may present a challenge for research programs and commercial growers. To implement commercial and research hemp programs, farmers need access to seeds that are guaranteed to produce plants that under the legal definition of hemp. These seeds can be difficult to obtain, however, because hemp is still regulated under the federal Controlled Substances Act. In response to this problem, Colorado's governor sent a letter to the U.S. secretary of agriculture in 2014 requesting the federal government address hemp seed regulations.

States are taking independent action to regulate industrial hemp seeds. Certified seeds are usually defined as seeds that contain less than 0.3 percent THC or produce hemp plants that contain less than 0.3 percent THC.

At least four states have also established specific licenses or certification programs for hemp seed distributors and producers:

- **California** requires seed breeders to register with their local county agricultural commissioner.
- **Indiana** allows growers who obtain an agricultural hemp seed production license to produce seeds. Licensees then sell seeds or retain them to propagate future crops.
- **Maine** allows the commissioner of agriculture, conservation and forestry to issue licenses to seed distributors if their seeds are from a certified seed source.

- **Oregon** requires growers who produce hemp seeds capable of germination to register with the Oregon Department of Agriculture if they intend to sell seeds. Growers who wish to retain seeds do not need to register as a seed producer.

## STATE STATUTES AND PUBLIC ACTS ON INDUSTRIAL HEMP RESEARCH AND CULTIVATION

State	Citation	Summary
<b>Alabama</b>	Ala. Code § 2-8-380 to 2-8-383 and § 20-2-2 (2016)	<ul style="list-style-type: none"> <li>▪ Creates an industrial hemp research program overseen by the Alabama Department of Agriculture and Industries to study hemp.</li> <li>▪ The department may coordinate the study with institutions of higher education.</li> </ul>
<b>Alaska</b>	Alaska Stat. § 03.05.010; Alaska Stat. § 03.05.100; Alaska Stat. § 03.05.076 to 03.05.079; Alaska Stat. § 11.71.900; Alaska Stat. § 17.20.020; Alaska Stat. §17.38.900 (2018)	<ul style="list-style-type: none"> <li>▪ Directs the commissioner of natural resources adopt regulations related to industrial hemp including approved sources or varieties of seed testing requirements, and establishing isolation distances.</li> <li>▪ Specifies registration requirements and allows activities for registered producers of industrial hemp.</li> <li>▪ Directs the department to establish fee levels cover regulatory costs and annually review the fee levels.</li> <li>▪ Allows for the creation of a pilot program by an institution of higher education or the Department of Natural Resources.</li> <li>▪ Defines both industrial hemp and cannabidiol. Amends definitions for hashish oil and marijuana.</li> <li>▪ Clarifies that the addition of industrial hemp to food does not create an adulterated food product.</li> <li>▪ Requires a report on or before Dec. 1, 2024.</li> </ul>
<b>Arizona</b>	<a href="#">SB 1098</a> (2018)	<ul style="list-style-type: none"> <li>▪ Authorizes a pilot program for the research, growth, cultivation and marketing of industrial hemp and establishes the Industrial Hemp Trust Fund.</li> <li>▪ Directs the Arizona Department of Agriculture (AZDA) to adopt rules for the licensing, production and management of hemp and hemp seed, to fees to fund AZDA's activities, and to establish an industrial hemp advisory council.</li> <li>▪ Allows for commercial hemp production, processing, manufacturing</li> </ul>
<b>Arkansas</b>	Ark. Stat. Ann. § 2-15-401 et seq. (2017)	<ul style="list-style-type: none"> <li>▪ Creates the Arkansas Industrial Hemp Program including a 10-year research program.</li> </ul>

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>▪ Authorizes the State Plant Board to adopt rule administer the research program and license growers.</li> <li>▪ Requires the State Plant Board to provide an annual report starting Dec. 31, 2018.</li> <li>▪ Allows the University of Arkansas's Division of Agriculture and the Arkansas Economic Development Commission to work with the St. Plant Board.</li> <li>▪ Establishes a separate program fund, which w include feeds collected and other sources of funding</li> </ul>
<b>California</b>	Cal. Food and Agric. Code §81000 to 81010 (2016)	<ul style="list-style-type: none"> <li>▪ Allows for a commercial hemp program overs by the Industrial Hemp Advisory Board within California Department of Food and Agriculture</li> <li>▪ Establishes registration for seed breeders.</li> <li>▪ This division will not become operative unless authorized under federal law.</li> </ul>
<b>Colorado</b>	Colo. Rev. Stat. § 35-61-101 to 35-61-109 (2016)	<ul style="list-style-type: none"> <li>▪ Allows hemp cultivation for commercial and research purposes to be overseen by the Industrial Hemp Committee under the Departr of Agriculture.</li> <li>▪ Establishes a seed certification program.</li> <li>▪ Establishes a grant program for state institutio of higher education to research new hemp see varieties.</li> </ul>
<b>Connecticut</b>	2014 Conn. Acts, P.A. #14-191 (Reg. Sess.)	<ul style="list-style-type: none"> <li>▪ Created an industrial hemp feasibility study wl reported to the state legislature on Jan. 1, 201</li> </ul>
<b>Delaware</b>	Del. Code Ann. tit. 3 § 2800 to 2802 (2016)	<ul style="list-style-type: none"> <li>▪ Establishes an industrial hemp research progr overseen by the Delaware Department of Agriculture.</li> <li>▪ Allows the department to certify institutions of higher education to cultivate hemp for researc purposes.</li> </ul>
<b>Florida</b>	S 1726 (Enacted; Effective June 16, 2017)	<ul style="list-style-type: none"> <li>▪ Directs the Department of Agriculture and Consumer Services to authorize and oversee development of industrial hemp pilot projects : certain universities. Commercialization project may be allowed after two years with certain conditions.</li> <li>▪ Authorizes the universities to develop pilot projects in partnership with public, nonprofit, a private entities;</li> </ul>

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State	Citation	Summary
<b>Hawaii</b>	Hawaii Rev. Stat. § 141A to 141J and § 712 (2016)	<ul style="list-style-type: none"> <li>▪ Requires a university to submit a report within years of establishing a pilot program.</li> </ul>
<b>Illinois</b>	Ill. Ann. Stat. ch. 720 § 550/15.2 (2016)	<ul style="list-style-type: none"> <li>▪ Establishes an industrial hemp pilot program overseen by the Hawaii Department of Agriculture.</li> <li>▪ Allows the Board of Agriculture to certify hemp seeds.</li> </ul>
<b>Indiana</b>	Ind. Code Ann. § 15-15-13-1 to 15-15-13-17 (2016)	<ul style="list-style-type: none"> <li>▪ Creates an industrial hemp pilot program which allows the Illinois Department of Agriculture or state institutions of higher education to grow hemp for research purposes.</li> <li>▪ Requires institutions of higher education provide annual reports to the department.</li> </ul>
<b>Kansas</b>	K.S.A Ch. 62 § 1 - 62 § 2  <a href="#">SB 263 (2018)</a>	<ul style="list-style-type: none"> <li>▪ Allows the production and possession of hemp licensed growers for commercial and research purposes.</li> <li>▪ Growers and handlers of hemp seeds must obtain a hemp seed production license.</li> <li>▪ Nothing in this section allows anyone to violate federal law.</li> </ul>
<b>Kentucky</b>	Ky. Rev. Stat. Ann. § 260.850 to 260.869 (2016)	<ul style="list-style-type: none"> <li>▪ Creates the Alternative Crop Research Act (a licensing fee fund) to promote the research and development of industrial hemp.</li> <li>▪ Allows the Kansas Department of Agriculture (KDA), either alone or in coordination with a state institute of higher education, to cultivate and promote research and development of industrial hemp.</li> <li>▪ Directs KDA to oversee annual licensing, establish fees, and promulgate rules and regulations.</li> <li>▪ Allows for a pilot program in Russell County, and other counties as determined by KDA.</li> </ul>

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>Creates the Industrial Hemp Commission, attached to the Agricultural Experiment Station oversee, among other things, the licensing, testing and implementation of regulations and rules related to hemp.</li> </ul>
<b>Maine</b>	Me. Rev. Stat. Ann. tit. 7 § 2231 (2016)	<ul style="list-style-type: none"> <li>Allows hemp growing for commercial purpose</li> <li>Establishes a license for seed distributors.</li> </ul>
<b>Maryland</b>	Md. Agriculture Code Ann. § 14-101 (2016)	<ul style="list-style-type: none"> <li>Establishes a license allowing individuals to grow, harvest, possess, process, sell, or buy industrial hemp in Maryland.</li> <li>Authorizes the Maryland Department of Agriculture or an institution of higher education grow hemp for research purposes.</li> </ul>
<b>Massachusetts</b>	Mass. Gen. Laws. Ann. 128 § 116 to 123 (2017)	<ul style="list-style-type: none"> <li>Allows for hemp to be planted, grown, harvest possessed, bought or sold for research or commercial purposes under the regulation of the Massachusetts Department of Agricultural Resources (MDAR).</li> <li>Requires producers and distributors to obtain license issued by MDAR and for persons utilize hemp for commercial or research purposes to register with MDAR.</li> <li>Directs MDAR and Commissioner of Agriculture promulgate rules and regulations.</li> </ul>
<b>Michigan</b>	Mich. Comp. Laws § 286.841 to 286.844 (2016)	<ul style="list-style-type: none"> <li>Creates an industrial hemp research program allowing the Michigan Department of Agriculture and Rural Development and institutions of higher education to grow hemp for research purpose</li> </ul>
<b>Minnesota</b>	Minn. Stat. § 18K.01 to 18K.09 (2016)	<ul style="list-style-type: none"> <li>Establishes a commercial hemp licensing program overseen by the Minnesota commissioner of agriculture.</li> <li>Applicants must prove they comply with all federal hemp regulations, meaning that commercial licenses may not be available until federal law changes.</li> <li>Allows the commissioner to implement an industrial hemp pilot program. Institutions of higher education may apply to participate in the program.</li> </ul>
<b>Missouri</b>	<a href="#">HB 2034</a> (2018)	<ul style="list-style-type: none"> <li>Creates an industrial hemp agricultural pilot program, in accordance with federal law, to be implemented by the Missouri Department of Agriculture (MDA) to study the growth, cultivation, processing, feeding and marketing.</li> </ul>

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>▪ Creates the Industrial Hemp Fund.</li> <li>▪ Directs MDA to promulgate rules, such as establishing permit and registration fees, to implement the program.</li> <li>▪ Allows the Missouri Crop Improvement Association to establish and administer a seed certification program; specifies the food containing industrial hemp may not be considered adulterated.</li> </ul>
<b>Montana</b>	Mont. Code Ann. § 80-18-101 to 80-18-111 (2016)	<ul style="list-style-type: none"> <li>▪ Allows the Montana Department of Agriculture implement a commercial hemp licensing program.</li> <li>▪ Requires commercial growers to use certified seeds.</li> <li>▪ Requires a federal controlled substances registration from the DEA for the affirmative defense against marijuana charges to apply.</li> </ul>
<b>Nebraska</b>	Neb. Rev. Stat. § 2-5701 (2016)	<ul style="list-style-type: none"> <li>▪ Allows a postsecondary institution or the Nebraska Department of Agriculture to grow hemp for research purposes.</li> </ul>
<b>Nevada</b>	Nev. Rev. Stat. § 557.010 to 557.080 (2016)	<ul style="list-style-type: none"> <li>▪ Mandates the Nevada Board of Agriculture implement an industrial hemp pilot program.</li> <li>▪ Allows institutions of higher education and the Nevada Department of Agriculture to grow hemp for research purposes.</li> </ul>
<b>New Hampshire</b>	N.H. Rev. Stat. Ann. § 433-C:1 to 433-C:3 (2016)	<ul style="list-style-type: none"> <li>▪ Allows institutions of higher education to cultivate hemp for research purposes.</li> <li>▪ All research must be coordinated with the New Hampshire Department of Agriculture, Market and Food.</li> <li>▪ All research projects must conclude within three years of commencement.</li> </ul>
<b>New Hampshire</b>	2014 N.H. Laws, Chap. 18	<ul style="list-style-type: none"> <li>▪ Established a committee to study the growth and sale of industrial hemp in New Hampshire.</li> <li>▪ The study was required to report their findings Nov. 1, 2014.</li> </ul>
<b>New Jersey</b>	AB 1330 / SB 3145 (2018)	<ul style="list-style-type: none"> <li>▪ Directs the New Jersey Department of Agriculture to create a pilot program to research industrial hemp cultivation.</li> <li>▪ Exempts anyone participating in the agricultural pilot program from crimes and penalties relating to the purchase, sale, or cultivation of marijuana.</li> </ul>
<b>New Mexico</b>	<a href="#">SB 6 (2017)</a>	<ul style="list-style-type: none"> <li>▪ Directs the New Mexico Department of Agriculture to adopt rules for the research and development</li> </ul>

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State	Citation	Summary
		<p>of industrial hemp, including for licensure, law enforcement training, inspection, recordkeeping fees and compliance processes.</p> <ul style="list-style-type: none"> <li>▪ Establishes the New Mexico Industrial Hemp Research and Development Fund.</li> </ul>
<b>New York</b>	N.Y. Agriculture and Markets Law § 505 to 508 (McKinney 2016)	<ul style="list-style-type: none"> <li>▪ Allows the growth of hemp as part of an agricultural pilot program by the Department of Agriculture and Markets and/or an institution of higher education.</li> <li>▪ The commissioner of agriculture and markets authorize no more than 10 sites for growing hemp as part of a pilot program.</li> <li>▪ The commissioner may develop regulations to authorize the acquisition and possession of industrial hemp seeds.                         <ul style="list-style-type: none"> <li>◦ 1 NYCRR 159.2 allows authorized growers to possess, grow and cultivate seeds and hemp plants.</li> </ul> </li> </ul>
<b>North Carolina</b>	N.C. Gen. Stat. § 106-568.50 to 106-568.54 and § 90-87(16) (2016)	<ul style="list-style-type: none"> <li>▪ Creates an agricultural hemp pilot program overseen by the North Carolina Industrial Hemp Commission within the North Carolina Department of Agriculture.</li> <li>▪ The commission must collaborate with North Carolina State University and North Carolina State University.</li> </ul>
<b>North Dakota</b>	N.D. Cent. Code § 4-41-01 to 4-41-03 and § 4-05.1-05 (2016)	<ul style="list-style-type: none"> <li>▪ Allows hemp cultivation for commercial or research purposes overseen by the North Dakota agricultural commissioner.</li> <li>▪ Growers must use certified seeds. Licensees import, resell and plant hemp seeds.</li> <li>▪ Permits the North Dakota State University-Mandan Research Center to conduct research on industrial hemp and hemp seeds.</li> </ul>
<b>Oklahoma</b>	OK ST T. 2 § 3-401  <a href="#">HB 2913 (2018)</a>	<ul style="list-style-type: none"> <li>▪ Creates the Oklahoma Industrial Hemp Agriculture Pilot Program and revolving fund for the program.</li> <li>▪ Allows universities, or subcontractors, to cultivate industrial hemp for research and development purposes.</li> <li>▪ Directs the Oklahoma Department of Agriculture, Food, and Forestry to manage the pilot program, establish a certified seed program, and promulgate rules related to licensing, inspection</li> </ul>
<b>Oregon</b>	Or. Rev. Stat § 571.300 to § 571.315 (2016)	

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>▪ Allows individuals registered by the Oregon Department of Agriculture to grow hemp for commercial purposes.</li> <li>▪ Growers and handlers who intend to sell or distribute seeds must be licensed as seed producers.</li> </ul>
<b>Pennsylvania</b>	Pa. Cons. Stat. Ann. tit. 3 § 701 to 710 (Purdon 2016)	<ul style="list-style-type: none"> <li>▪ Allows institutions of higher education or the Department of Agriculture of the commonwealth to research hemp under an industrial hemp pilot program.</li> <li>▪ This chapter shall expire if the secretary of agriculture of the Commonwealth determines a federal agency is authorized to regulate hemp</li> </ul>
<b>Rhode Island</b>	R.I. Gen. Laws § 2-26-1 to 2-26-9 (2016)	<ul style="list-style-type: none"> <li>▪ Establishes a commercial hemp program overseen by the Department of Business Regulation. <ul style="list-style-type: none"> <li>◦ Allows the Division of Agriculture in the Department of Environmental Management to assist the Department of Business Regulation in regulating hemp.</li> </ul> </li> <li>▪ Growers must verify they are using certified seeds.</li> <li>▪ The department shall authorize institutions of higher education to grow hemp for research purposes.</li> </ul>
<b>South Carolina</b>	S.C. Code Ann. § 46-55-10 to 46-55-40 (Law. Co-op 2016)	<ul style="list-style-type: none"> <li>▪ Allows hemp growth for commercial and research purposes.</li> </ul>
<b>Tennessee</b>	Tenn. Code Ann. § 43-26-101 to 43-26-103 (2016)	<ul style="list-style-type: none"> <li>▪ Allows commercial hemp production overseen by the Tennessee Department of Agriculture.</li> <li>▪ Directs the commissioner of agriculture to develop licensing rules for processors and distributors.</li> <li>▪ Allows institutions of higher education to acquire and study seeds for research and possible certification.</li> </ul>
<b>Utah</b>	Utah Code Ann. § 4-41-101 to 4-41-103 (2016)	<ul style="list-style-type: none"> <li>▪ Allows the Utah Department of Agriculture to grow hemp for research purposes.</li> <li>▪ Requires that the department certify institutions of higher education to grow hemp for research purposes.</li> </ul>
<b>Vermont</b>	Vt. Stat Ann. tit. 6 § 561 to 566 (2016)	<ul style="list-style-type: none"> <li>▪ Allows for commercial hemp production overseen by the Vermont secretary of agriculture, food and markets.</li> </ul>

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>▪ Requires the registration form advise applican that hemp is still listed and regulated as cann under the federal Controlled Substances Act.</li> </ul>
<b>Virginia</b>	Va. Code § 3.2-4112 to 3.2-4120 (2016)	<ul style="list-style-type: none"> <li>▪ Authorizes research and commercial hemp programs overseen by the Virginia Board of Agriculture and Consumer Services and the Virginia commissioner of agriculture and hum services.</li> <li>▪ The commissioner must establish separate licenses for the research program and for commercial growers.</li> <li>▪ Nothing in this chapter allows individuals to vi federal laws.</li> </ul>
<b>Washington</b>	Wash. Rev. Code Ann. § 15.120.005 to 15.120.050 (2016)	<ul style="list-style-type: none"> <li>▪ Allows hemp production as part of a research program overseen by the Washington State Department of Agriculture.</li> <li>▪ Requires the department establish a seed certification program.</li> </ul>
<b>West Virginia</b>	W. Va. Code. § 19-12E-1 to 19-12E-9 (2016)	<ul style="list-style-type: none"> <li>▪ Allows hemp production for commercial purpo by growers licensed by the West Virginia Commissioner of Agriculture.</li> <li>▪ Growers must use seeds which produce plant containing less than 1 percent THC.</li> </ul>
<b>Wisconsin</b>	<p>Wis. Stat. §94.55; Wis. Stat. §94.67; Wis. Stat. §97.02; §348.27; Wis. Stat. §961.14; Wis. Stat. §961.32; Wis. Stat. §961.442; Wis. Stat. §961.55; Wis. Stat. §973.01 (effective Dec. 2, 2017)</p> <p>(Also, see 2017 Act 100 or <a href="#">S.B. 119.</a>)</p>	<ul style="list-style-type: none"> <li>▪ Directs the state Department of Agriculture, Trade and Consumer Pro (DATCP) to establish a state industrial hemp program.</li> <li>▪ Includes GPS coordinates, fee payment and a criminal history search requirements for licenses.</li> <li>▪ Directs the DATCP to establish and administer a seed certification prc or designate another agency or organization to administer the program</li> <li>▪ Requires the DATCP to create a pilot program to study the growth, cultivation and marketing of industrial hemp.</li> <li>▪ Specifies exemptions from prosecution under the state Uniform Contr Substances Act.</li> <li>▪ Amends the definition of agricultural commodity to include industrial h</li> </ul>
<b>Wyoming</b>	Wyo. Stat. § 35-7-2101 to 35-7-2107 (effective July 1, 2017)	<ul style="list-style-type: none"> <li>▪ Authorizes the planting, growing, harvesting, possession, processing, or sale of industrial h for licensed individuals.</li> <li>▪ Provides for licensing requirements and rule-making authority by the state department of agriculture.</li> </ul>

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State	Citation	Summary
		<ul style="list-style-type: none"> <li>▪ Allows the University of Wyoming and the state department of agriculture to grow industrial hemp for research purposes.</li> <li>▪ Provides an affirmative defense for marijuana possession or cultivation of marijuana for licer industrial hemp growers.</li> </ul>

**Additional Resources**

- [NCSL Marijuana Deep Dive](#)
- [Congressional Research Service’s Hemp as an Agricultural Policy](#), Feb. 2015
- [NCSL Marijuana Overview](#)
- [NCSL State Medical Marijuana Laws](#)
- [What’s All the Hype about Hemp?](#), June 2014 *State Legislatures* magazine

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# **EXHIBIT E**

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**Annual Hemp & CBD Industry**

# **FACTBOOK**

The definitive benchmark  
analysis of Hemp and CBD  
markets in the United States

**2018 | 1st Edition**



Hemp  
Industry  
**Daily**

## Chart Recreated w/ Permission on Following Page

When states jumped into the emerging hemp market, many did so with gusto after a short period of hesitation. Many states that adopted hemp production raised or lifted production caps soon after getting started with the new crop, leading to dramatic increases in the U.S. hemp crop just in the last two years.

Though 2018 harvest totals weren't ready for this report, another enormous increase is expected.

Three drivers explain hemp's meteoric revival:

- New states authorizing hemp production and increased production among existing hemp states
- Farmers looking for alternatives to more traditional commodity crops
- Growing demand for CBD

**Total Acres Of Hemp Grown In The United States:  
2016 Vs. 2017**

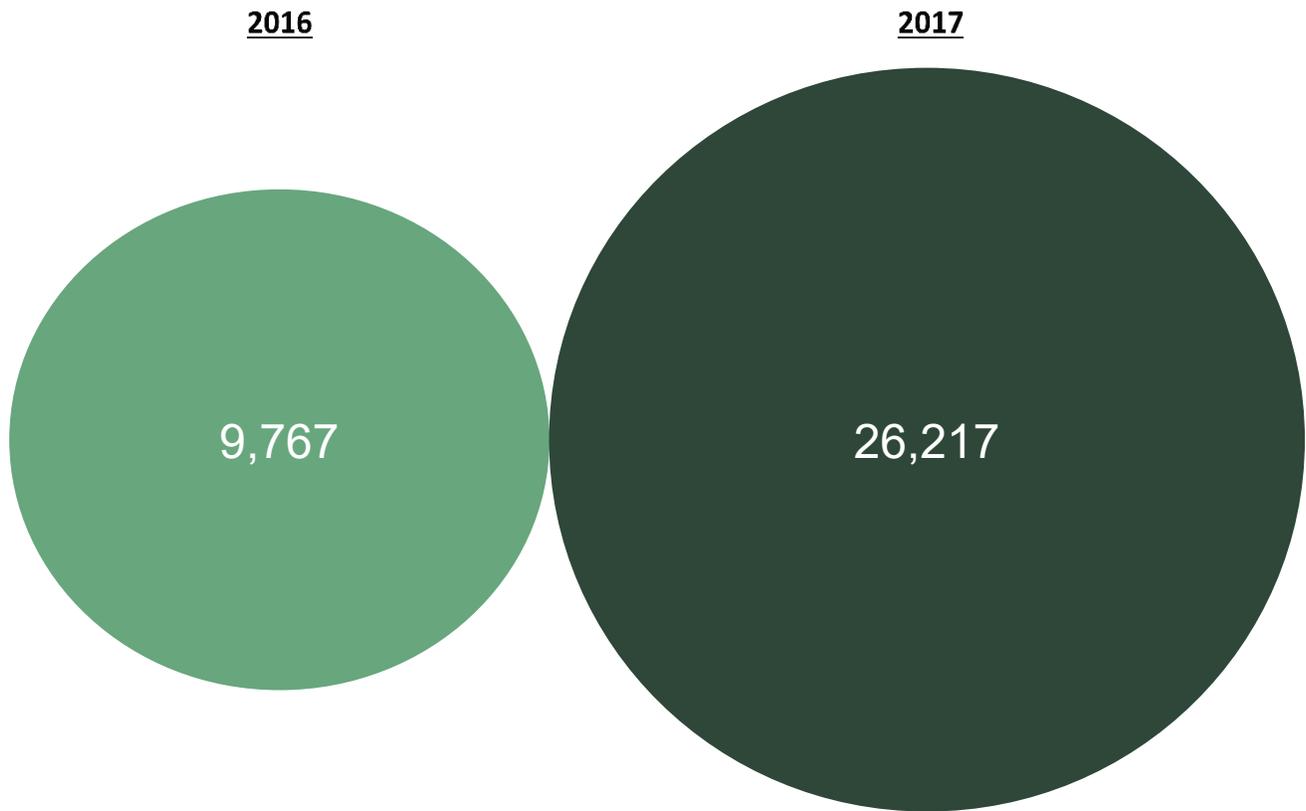


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## Chart Recreated w/ Permission on Following Page

How large the CBD market is – and how much it will grow – is a question on the minds of many within the industry. But it’s also a challenging number to pinpoint.

While hemp-derived CBD products have skyrocketed in popularity of late, there’s no sources of data detailing the number of Americans using CBD – a fundamental piece of any credible sales estimate. And while there are outlets tracking CBD sales in dispensaries and brick-and-mortar retail stores, they exclude online sales, which is widely believed to be the primary sales channel for hemp-derived CBD.

In the absence of specific data on the hemp-derived CBD market we can look to the broader U.S. nutraceuticals market to try to draw conclusions, using probiotics as a rough proxy for how CBD sales will progress in the coming years. Though the parallels between hemp-derived CBD and probiotics are not flawless, it provides a framework to estimate hemp-derived CBD sales that are based on actual data. (See the Methodology in the Appendix for a more detailed description of the framework used.)

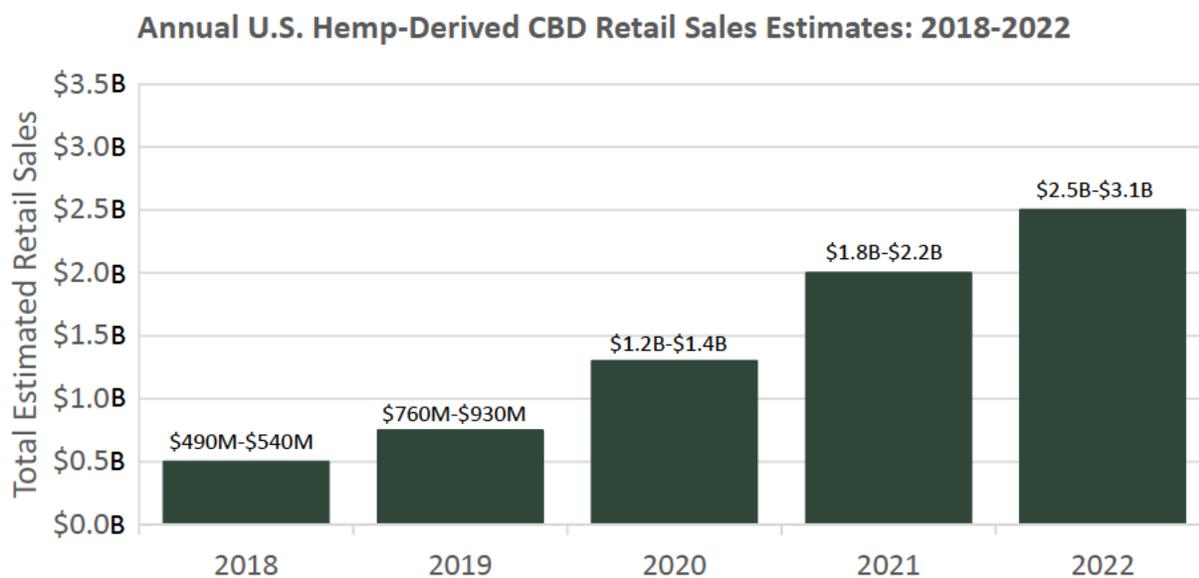


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The overall state of the 2018 hemp industry may be best summed up like this: Revenue is largely a future prospect for hemp producers, but registrations and acreage devoted to the crop continue to rise.

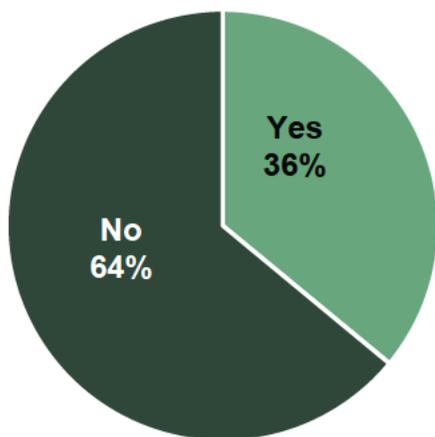
Although two out of three producers reported making no money last year, more than three in four hemp farmers expect their hemp operation to produce revenue in 2018.

The explanation likely lies in rosy market forecasts for hemp products, alongside economic trends around commodity crops and marijuana grows. Traditional farmers report adding hemp to their crop rotation as a hedge against depressed prices seen for tobacco or flax, while some marijuana growers in legal states say they are moving to hemp to reduce their tax and regulatory burdens.

Among state departments of agriculture that regulate hemp, a popular note of skepticism is that farmers won't grow the plant without better prospects for selling it. Our survey shows that while it is still a niche crop, cultivators are overwhelmingly optimistic that revenue from hemp will increase.

**Portion of Hemp Cultivators Generating Revenue In 2017 & Revenue Expectations For 2018**

***Cultivators: Did You Generate Any Revenue From Growing Hemp in 2017?***



***Cultivators: Do You Expect To Generate Any Revenue From Growing Hemp in 2018?***

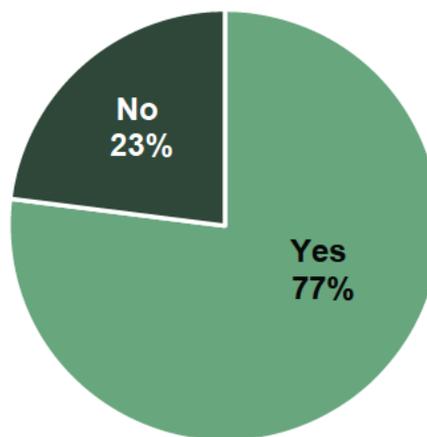


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Hemp optimism isn't limited to the folks growing it. Processors and extractors surveyed showed similar optimism in hemp's growing market potential.

Processors reported a variety of revenue outcomes in 2017, ranging from \$0 to \$1 million and a median annual revenue of \$250,000. For 2018, hemp processors anticipate revenue will tick up to a median of \$355,000, an expected increase of 42%.

The explanation for the increased expectations likely lies in rosy market forecasts for hemp products, particularly CBD, alongside depressed prices for other commodity crops and falling or stabilizing marijuana prices.

### Hemp Processors: 2017 Revenue & Anticipated 2018 Revenue

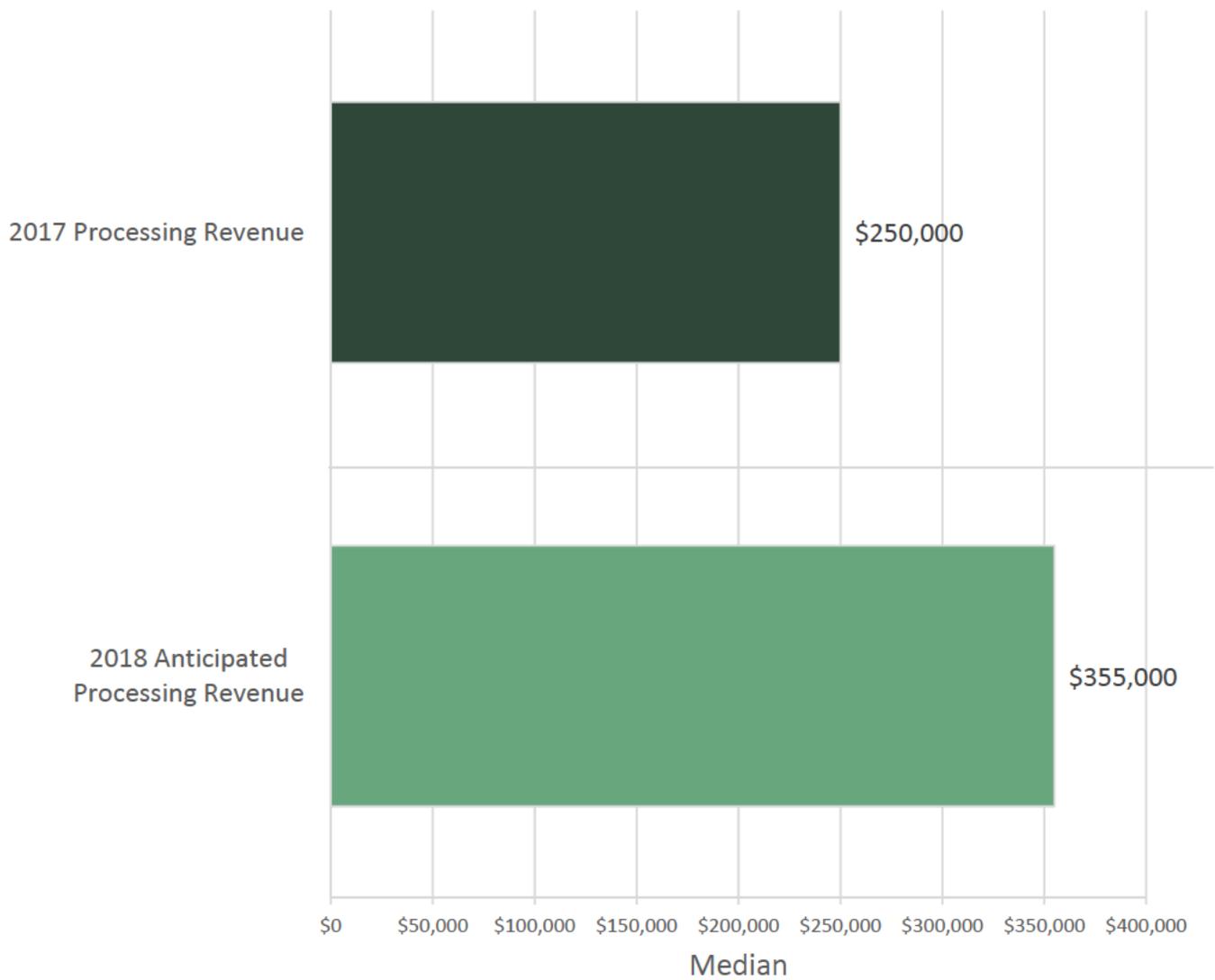


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# **EXHIBIT F**



Select Page



# Hemp Facts and Statistics

## Here is a short list of general facts about hemp.

- Hemp is thought to be the first domestically-cultivated plant, with evidence of hemp fabric dating to 8,000 years ago found in Turkey (former-day Mesopotamia). Other evidence suggests cultivation further back by two or more thousands of years.
- The word hemp has been used in the past to Europe to describe other fiber plants, including sisal and jute.
- Beer hops (*Humulus* genus) are a close cousin of genus *Cannabis*, both of which fall under family Cannabaceae.
- Hemp products are now legal in the United States, although ingredients or end products are currently imported from other countries – particularly Canada.
- Hemp was not always treated as the same as marijuana by the U.S. government.
- The word “marihuana” (now marijuana) was coined in the 19th century but not used until the 1930s by the U.S. Bureau of Narcotics (replaced by the DEA) to refer to all forms of cannabis.
- According to the documentary “The Union: The Business Behind Getting High” (available at YouTube), the first marijuana law in



the United States was enacted in 1619, in Jamestown Colony, Virginia, and actually required farmers to grow hemp. Benjamin Franklin used hemp in his paper mill – one of the country’s first – and the first two copies of the Declaration of Independence were supposedly written on hemp paper.

- In parts of the Americas, hemp was legal tender and could be used to pay taxes.
- Hemp paper is stronger than wood-based paper, and can withstand more folding. In general, hemp has strongest natural fiber of any source.
- Hemp paper hundreds of years old (found in museums) has not yellowed, and is thus a high quality paper of archival quality.
- Marijuana plants cannot be hidden amongst hemp plants. The former grows wide and less tall (5-10 feet), whereas the latter is grown more densely and taller (10-15 feet), to produce maximum stalk fiber lengths.
- Hemp can grow nearly anywhere in the world, in many types of soil — even in short growing seasons or in dry regions — and helps purify soil as well as kills some types of weeds
- Hemp can grow without pesticides. The crop is also kills some weeds, purifies soil, and is suitable for rotation use, due not only to its short harvest cycle (120 days).
- Hemp is a high-yield crop. One acre of hemp produces twice as much oil as one acre of peanuts, and nearly four times as much fiber pulp (for paper) as an acre of trees.
- Hemp paper is naturally acid-free and does not yellow as tree pulp-based paper.



- Hemp has the strongest (and longest) plant fiber in the world, resistant to rot and abrasion, and was in long use before DuPont patented nylon in 1937. It was used for ship rigging, military uniforms, parachute webbing, baggage and more.
- Because of its strength, hemp fiber can be used for composite materials that could be used to make anything from skateboard decks to car and stealth fighter bodies.
- A hemp composite material (with limestone and water) forms a type of concrete (hempcrete) that can be used for home building, at 1/9th the weight. It also acts as insulation and repels some vermin.
- Levi jeans were originally made from hemp sailcloth (and rivets), for goldminers in California, who would fill their pockets with gold.
- By the 1800s, the state of Kentucky produced about half of the industrial hemp in the U.S. The first hemp crop there was planted in Boyle County in 1775.
- Henry Ford, founder of the Ford Motor Company, created a plastic car in 1941 which ran on hemp and other plant-based fuels, and whose fenders were made of hemp and other materials. Ford had a plan to “grow automobiles from the soil.” (Note: a company in France is experimenting with a similar vehicle in current day.)
- Despite the active Marijuana Tax Act and the official federal government stance on hemp and marijuana, the U.S. Army and the Dept of Agriculture jointly produced a 1942 film, “Hemp Victory,” encouraging farmers to grow hemp for the country's effort in World War II — particularly for textiles and rope, of which had been cut off by war. Over 100,000 acres of hemp was growing in the U.S., but all related permits were canceled when WW II ended.



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# **EXHIBIT G**

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# Industrial Hemp: A Win-Win For The Economy And The Environment



Logan Yonavjak Contributor  
Ashoka Contributor Group ©

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*Logan Yonavjak (@Loganyon) makes a case for allowing farmers in the United States to grow hemp.*

Industrial hemp was once a dominant crop on the American landscape. This hardy and renewable resource (one of the earliest domesticated plants known, with roots dating back to the Neolithic Age in China) was refined for various industrial applications, including paper, textiles, and cordage.

Over time, the use of industrial hemp has evolved into an even greater variety of products, including health foods, organic body care, clothing, construction materials, biofuels, plastic composites and more (according to one source, [more than 25,000 products](#) can be made from hemp).

In the U.S., the [first hemp plantings](#) were in Jamestown, Virginia, where growing hemp was actually mandatory. From then on hemp was used in everything from 19th century clipper ship sails to the covers of pioneer wagons. The Declaration of Independence was drafted on hemp paper, and even the finest Bible paper today remains hemp-based.

In the early 20th century, hemp-derived cellulose was promoted as an affordable and renewable raw material for plastics; Henry Ford even built a prototype car from



biocomposite materials, using agricultural fiber such as hemp.



Industrial hemp being grown for fiber and grain in France. (Photo credit: Wikipedia)

## YOU MAY ALSO LIKE

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After that things started to go downhill. In 1937, the passage of “Marihuana Tax Act” occurred, and, despite the U.S. government's “[Hemp for Victory](#)” campaign during World War II, misplaced fears that industrial hemp is the same as marijuana combined with targeted harassment by law enforcement discouraged farmers from growing hemp. The last crop was grown in Wisconsin in 1958, and by 1970 the Controlled Substances Act (CSA) formally prohibited cultivation (although the state of Hawaii is home to the [first industrial hemp crop](#) to be cultivated since the passage of the CSA).

### The Situation Today

Sustainable hemp seed, fiber and oil are still used in raw materials by [major companies](#), including Ford Motors, Patagonia, and The Body Shop, to make a wide variety of products. However, most hemp product manufacturers are forced to import hemp seed, oil and fiber from growers in Canada, Europe, and China because American farmers are prohibited by law from growing this low-input sustainable crop.

In 2012 the U.S. hemp industry was valued at an estimated [\\$500 million](#) in annual retail sales and growing for all hemp products, according to the Hemp Industries Association, a non-profit trade organization consisting of hundreds of hemp businesses.

Not only can hemp be used for an astonishing number of products, its net environmental benefit is impressive. Among the more salient features, hemp grows in a variety of climates and soil types, is naturally resistant to most pests, and grows very tightly spaced allowing it to outcompete most weeds. A natural substitute for cotton and wood fiber, hemp can also be pulped using fewer

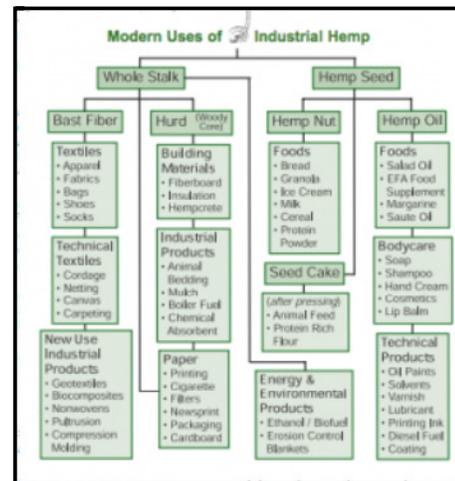
chemicals than wood because of its low lignin content. Its natural brightness can obviate the need to use chlorine bleach.

Why is this incredible plant illegal?

Because it is erroneously confounded with marijuana, and many policymakers believe that by legalizing hemp they are legalizing marijuana, which is not true. Canada, Britain, France, Germany, and Spain, along with over twenty other countries, cultivate and process industrial hemp without affecting the enforcement of marijuana laws. ([More common misperceptions about hemp and factual rebuttals.](#))

In fact, industrial hemp and marijuana are different breeds of *Cannabis sativa*; hemp has no value as a recreational drug. Actually smoking large amounts of hemp flowers can produce a significant headache, but not a high.

To delve further in the details, in most western countries industrial hemp is distinguished from marijuana on the basis of THC (the chief intoxicant in marijuana) content, which allows the growing of industrial hemp for fiber and seed. Regulations in the E.U. and Canada ([31 countries](#) currently grow industrial hemp) limit THC levels in hemp flowers to 0.2 percent and 0.3 percent, respectively, and prevent attempts to camouflage marijuana in hemp fields. Comparatively, THC levels in marijuana flowers are generally between 3 percent and 15 percent.



A hemp revival is beginning to gain momentum. Perception is beginning to shift in the U.S. Over the past several decades, there's been a resurgence of interest in hemp by a diverse but increasingly politically influential and unified group of businesses, farmers, nutritionists, activists, and green consumers.

What has to occur is a change in the federal policy to essentially revise the definition of "marijuana" so that the term excludes industrial hemp, and then

enact specified procedures and requirements relating to growing industrial hemp and those who cultivate industrial hemp.

“A change in federal policy to once again allow hemp farming would mean instant job creation, among many other economic and environmental benefits,” says Tom Murphy, the National Outreach Coordinator of Vote Hemp.

### **Current Federal and State Legislative Progress**

The Industrial Hemp Farming Act of 2013 (H.R. 525) was recently introduced in the House with 28 original co-sponsors, and it was quickly joined by a companion bill in the Senate (S. 359) which was introduced by Senators Ron Wyden (D-OR), Rand Paul (R-KY), Jeff Merkley (D-OR), and Minority Leader Mitch McConnell (R-KY), underscoring the bipartisan support around the hemp issue.

If passed, the bills would remove federal restrictions on the domestic cultivation of industrial hemp, defined as the non-drug oilseed and fiber varieties of *Cannabis*. The full text of the bills, as well as status and co-sponsors, [can be found online](#).

H.R. 525 is the fifth bill introduced in the U.S. House of Representatives in support of industrial hemp farming since the federal government outlawed it in the U.S. in 1971.

At the state level, the first hemp bill was introduced in Colorado in 1995. To date, 31 states have introduced pro-hemp legislation and 19 have passed such legislation.

Eight states (Colorado, Maine, Montana, North Dakota, Oregon, Vermont, [Washington](#) and West Virginia) have defined industrial hemp as distinct and removed barriers to its production;

Three states (Hawaii, Kentucky and Maryland) have passed bills creating commissions or authorizing hemp research;

Nine states (California, Colorado, Illinois, Montana, New Hampshire, New Mexico, North Dakota, Vermont and Virginia) have passed hemp resolutions; and,

Six states (Arkansas, Maine, Minnesota, New Mexico, North Carolina and Vermont) have passed hemp study bills.

However, [despite state authorization](#) to grow hemp, farmers in those states still risk raids by federal agents, prison time, and property and civil asset forfeiture if they plant the crop due to the failure of federal policy to distinguish non-drug oilseed and fiber varieties of *Cannabis* (i.e., industrial hemp) from psychoactive drug varieties (i.e., "marihuana").

### **The Future of Hemp in the U.S.**

Hemp is not a panacea for our social, economic, and environmental woes—no single crop can do that.

However, as we transition to a future that embraces more sustainable agriculture practices industrial hemp can help lead the way. With focused and sustained research and development, hemp could spur dramatic positive ecological and economic benefits. For instance, renewable, fast-growing hemp is a substitute for many unsustainable products like non-organic cotton (which [currently uses](#) more than 25 percent of the world's insecticides and more than 10 percent of the world's pesticides) and many plastic products.

In addition to supporting a federal policy change on industrial hemp, each of us can help grow the hemp marketplace by buying hemp products and also by staying informed and talking to our state and national representatives, and our friends and family, about the benefits of industrial hemp for the economy and the environment.

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*Logan Yonavjak is a freelance writer for Forbes.com, Ashoka Changemakers, and Nextbillion.net.*

*The [4th Annual Hemp History Week](#) will be held next week, June 3-9, 2013.*

*"Modern Uses of Industrial Hemp" chart [via](#)*





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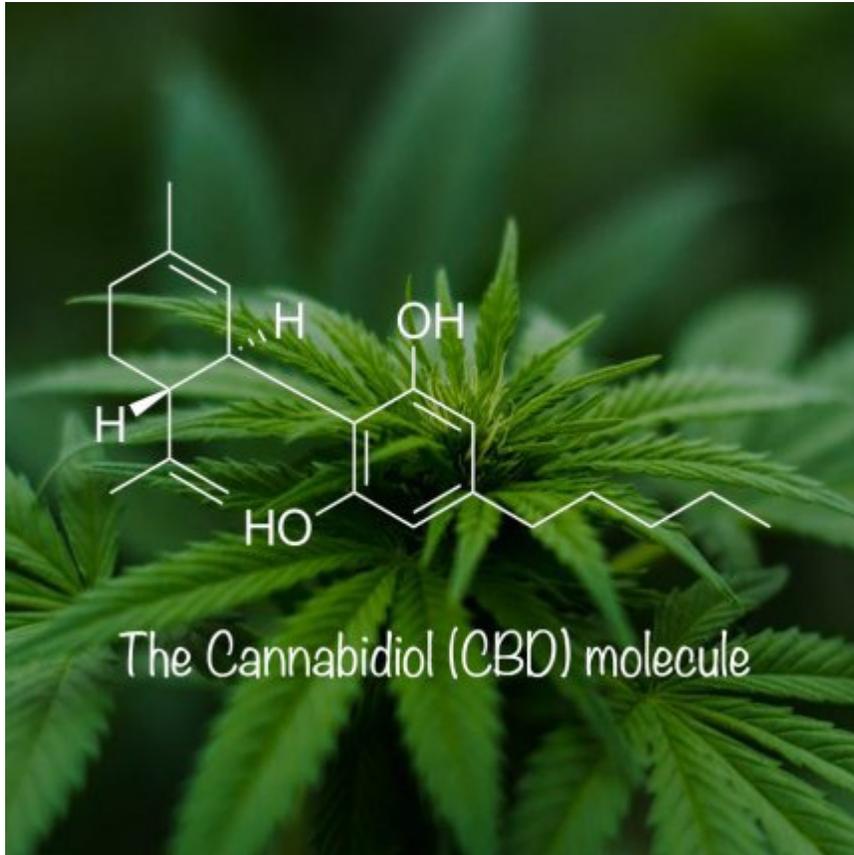
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# **EXHIBIT H**

# PROJECT CBD:WHAT IS CBD?



## INTRO TO CBD

Cannabidiol (CBD) is a naturally occurring compound found in the resinous flower of cannabis, a plant with a rich history

(<http://www.projectcbd.org/culture/re-emergence-cbd-brief-history>) as a medicine going back thousands of years. Today the therapeutic properties of CBD are being tested and confirmed by scientists and doctors around the world. A **safe, non-addictive substance**, CBD is one of more than a hundred “**phytocannabinoids**,” which are unique to cannabis and endow the plant with its robust therapeutic profile.

CBD is closely related to another important medicinally active phytocannabinoid: tetrahydrocannabinol (THC), the compound that causes the high that cannabis is famous for. These are the two components of cannabis that have been most studied by scientists.

Both CBD and THC have **significant therapeutic attributes**. But unlike THC, CBD does not make a person feel “stoned” or intoxicated. That’s because CBD and THC act in different ways on different receptors in the brain and body.

CBD can actually lessen or neutralize the psychoactive effects of THC, depending on how much of each compound is consumed. Many people want the health benefits of cannabis without the high - or with less of a high.

The fact that CBD is therapeutically potent as well as non-intoxicating, and easy to take as a CBD oil, makes it an appealing treatment option for those who are cautious about trying cannabis for the first time.

## CBD: THE MULTIPURPOSE MOLECULE

Many people are seeking alternatives to pharmaceuticals with harsh side effects – medicine more in synch with natural processes. By tapping into how we function biologically on a deep level, CBD can provide relief for chronic pain ([//www.projectcbd.org/cbd-for/pain](http://www.projectcbd.org/cbd-for/pain)), anxiety ([//www.projectcbd.org/condition/10](http://www.projectcbd.org/condition/10)), inflammation ([//www.projectcbd.org/condition/26](http://www.projectcbd.org/condition/26)), depression ([//www.projectcbd.org/condition/18](http://www.projectcbd.org/condition/18)) and many other conditions ([//www.projectcbd.org/guidance/conditions](http://www.projectcbd.org/guidance/conditions)).

Extensive scientific research - much of it sponsored by the U.S. government - and mounting anecdotal accounts from patients and physicians highlight CBD’s potential as a treatment for a wide range of maladies, including (but not limited to):

- Autoimmune diseases (inflammation ([//www.projectcbd.org/condition/26](http://www.projectcbd.org/condition/26)), rheumatoid arthritis ([//www.projectcbd.org/condition/44](http://www.projectcbd.org/condition/44)))

- Neurological conditions (Alzheimer's ([//www.projectcbd.org/condition/7](http://www.projectcbd.org/condition/7)), dementia, Parkinson's ([//www.projectcbd.org/condition/41](http://www.projectcbd.org/condition/41)), multiple sclerosis ([//www.projectcbd.org/condition/34](http://www.projectcbd.org/condition/34)), epilepsy ([//www.projectcbd.org/condition/21](http://www.projectcbd.org/condition/21)), Huntington's chorea ([//www.projectcbd.org/condition/25](http://www.projectcbd.org/condition/25)), stroke, traumatic brain injury ([//www.projectcbd.org/condition/51](http://www.projectcbd.org/condition/51)))
- Metabolic syndrome (diabetes ([//www.projectcbd.org/condition/19](http://www.projectcbd.org/condition/19)), obesity ([//www.projectcbd.org/condition/38](http://www.projectcbd.org/condition/38)))
- Neuropsychiatric illness (autism ([//www.projectcbd.org/condition/14](http://www.projectcbd.org/condition/14)), ADHD ([//www.projectcbd.org/condition/3](http://www.projectcbd.org/condition/3)), PTSD ([//www.projectcbd.org/condition/43](http://www.projectcbd.org/condition/43)), alcoholism ([//www.projectcbd.org/medicine/alcoholism-and-endocannabinoid-system](http://www.projectcbd.org/medicine/alcoholism-and-endocannabinoid-system)))
- Gut disorders ([//www.projectcbd.org/condition/17](http://www.projectcbd.org/condition/17)) (colitis, Crohn's)
- Cardiovascular dysfunction (atherosclerosis ([//www.projectcbd.org/condition/11](http://www.projectcbd.org/condition/11)), arrhythmia)
- Skin disease ([//www.projectcbd.org/condition/47](http://www.projectcbd.org/condition/47)) (acne ([//www.projectcbd.org/condition/2](http://www.projectcbd.org/condition/2)), dermatitis, psoriasis)

CBD has proven neuroprotective

(<https://www.ncbi.nlm.nih.gov/pubmed/9653176>) effects and its anti-cancer

([//www.projectcbd.org/cbd-for/cancer](http://www.projectcbd.org/cbd-for/cancer)) properties are being investigated at

several academic research centers in the United States and elsewhere. A 2010

brain cancer study (<https://www.ncbi.nlm.nih.gov/pubmed/20053780>) by

California scientists found that CBD “enhances the inhibitory effects of THC on

human glioblastoma cell proliferation and survival.” This means that CBD makes

THC even more potent as an anticancer substance. Also in 2010, German

researchers reported that CBD stimulates neurogenesis

(<https://www.ncbi.nlm.nih.gov/pubmed/20565726>), the growth of new brain

cells, in adult mammals.



([//www.projectcbd.org/cbd-101/cbd-myths-busted](http://www.projectcbd.org/cbd-101/cbd-myths-busted))

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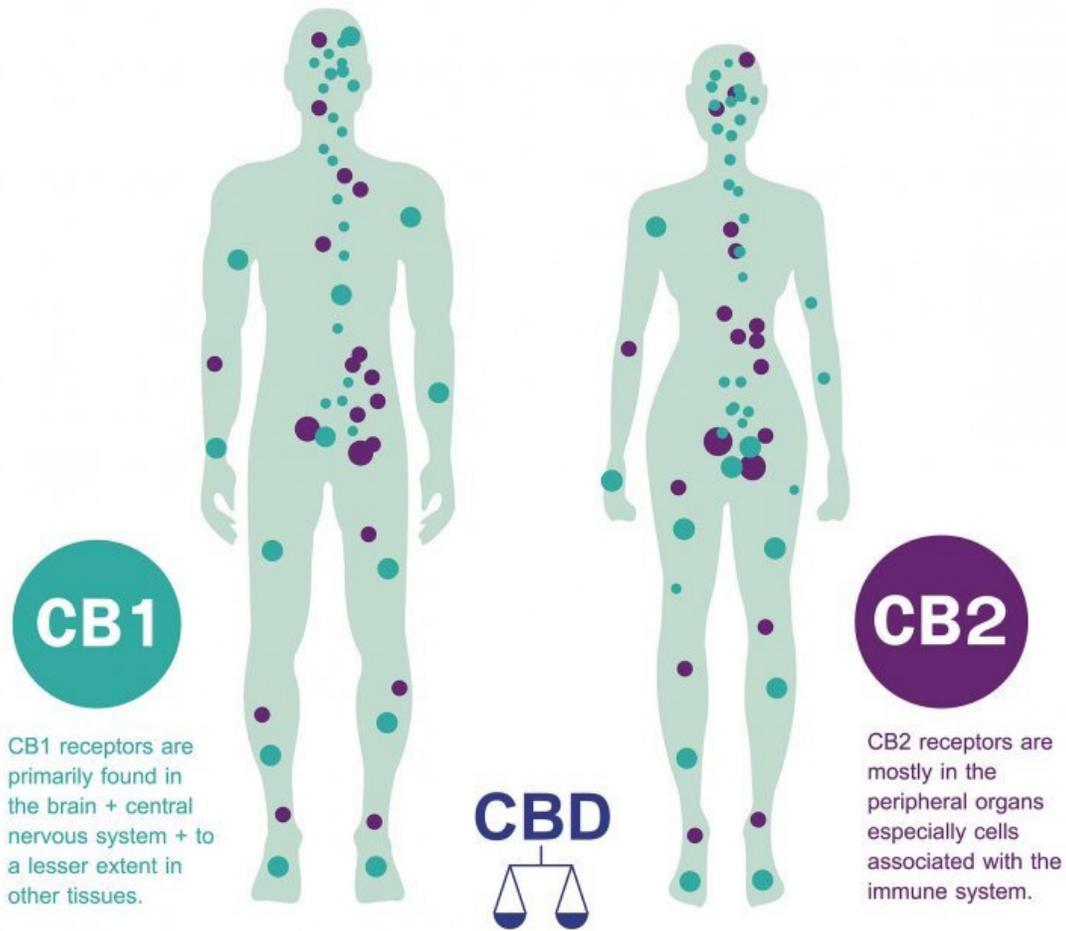
CBD Myths & Misconceptions ([//www.projectcbd.org/cbd-101/cbd-myths-busted](http://www.projectcbd.org/cbd-101/cbd-myths-busted))

## HOW DOES CBD WORK?

CBD and THC interact with our bodies in a variety of ways. One of the main ways they impact us is by mimicking and augmenting the effects of the compounds in our bodies called “endogenous cannabinoids” – so named because of their similarity to the compounds found in the cannabis plant. These “endocannabinoids” are part of a regulatory system called the “endocannabinoid system”.

The [discovery of the endocannabinoid system \(https://www.beyondthc.com/wp-content/uploads/2012/07/eCBSystemLee.pdf\)](https://www.beyondthc.com/wp-content/uploads/2012/07/eCBSystemLee.pdf) has significantly advanced our understanding of health and disease. It has major implications for nearly every area of medical science and helps to explain how and why CBD and THC are such versatile compounds – and why cannabis is such a widely consumed mood-altering plant, despite its illegal status.

<http://www.projectcbd.org/sites/projectcbd/files/downloads/the-endocannabinoid-system.jpg>



## THE Endocannabinoid system

<http://www.projectcbd.org/sites/projectcbd/files/downloads/the-endocannabinoid-system.jpg>

The endocannabinoid system plays a crucial role in regulating a broad range of physiological processes that affect our everyday experience – our mood, our energy level, our intestinal fortitude, immune activity, blood pressure, bone density, glucose metabolism, how we experience pain, stress, hunger, and more.

What happens if the endocannabinoid system doesn't function properly? What are the consequences of a chronically deficient or overactive endocannabinoid system?

In a word, disease.

Cutting-edge science has shown that the endocannabinoid system is dysregulated in nearly all pathological conditions. Thus, it stands to reason that “modulating endocannabinoid system activity may have therapeutic potential in almost all diseases affecting humans,” as Pal Pacher and George Kunos, scientists with the U.S. National Institutes of Health (NIH), suggested in a 2014 [publication \(https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3684164/\)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3684164/).

By modulating the endocannabinoid system and enhancing endocannabinoid tone, CBD and THC can slow – or in some cases stop – disease progression.

## PHARMACEUTICAL CBD

There's a lot of excitement about the healing potential of CBD – with good reason.

But it wasn't until June 25, 2018, that the U.S. Food and Drug Administration (FDA) recognized cannabidiol as a real medicine by approving **Epidiolex**, an almost pure pharmaceutical CBD formulation, as a treatment for two severe pediatric seizure disorders, Lennox-Gastaut syndrome and Dravet syndrome.

This was the first time since the peak of the reefer madness era 80 years ago – when “marihuana” became a crime instead of a cure – that the federal government had given an official thumbs-up for a cannabis-derived product.

In response to the FDA's historic decision, the Drug Enforcement



Administration (DEA) announced in September 2018 that it had removed Epidiolex from **Schedule I** classification, a category reserved for dangerous drugs with no medical value. Henceforth, Epidiolex would be considered a Schedule V drug, the least dangerous designation under the Controlled Substances Act.

But the DEA kept cannabis and CBD itself on Schedule I as an illegal narcotic. In the world according to Uncle Sam, pharmaceutical CBD is officially the only good cannabinoid while the rest of the plant remains an 'evil' weed.

Given CBD's reputation as a popular, artisanal remedy, one would think that Epidiolex would command a lot of "off label" attention. After all, physicians often prescribe pharmaceuticals off label to treat conditions that were not the actual focus of clinical trials. But the costly price tag for Epidiolex (more than \$30,000 annually) precludes off label prescribing as well as affordable access for tens of millions of Americans without health insurance.

## CBD OIL

For those who can't obtain pharmaceutical CBD, there are numerous internet storefronts, community markets, coffee shops, health clubs, chiropractic offices, upscale boutiques and gas stations that retail various hemp-derived CBD oil products, including pure CBD isolates comparable in chemical make-up to Epidiolex.

CBD oil products and flower with varying levels of THC and CBD are also available for smoking or vaping at cannabis dispensaries in states that have legalized the herb for therapeutic use.

In response to massive consumer demand, a huge, **unregulated market** in CBD oil products reached a critical mass in 2018. A surge of consumer interest in all things CBD was suddenly newsworthy with hosanas of praise coming from athletes, film stars, soccer moms, and parents of desperately ill children.

CBD oil has been touted as a curative for the sick and a preventive for the healthy, an all-purpose palliative for [pets](http://www.projectcbd.org/cbd-101/cbd-for-pets) as well as people of all ages.

But along with a growing awareness of cannabidiol as a potential health aide, there has also been a proliferation of [misconceptions about CBD](http://www.projectcbd.org/cbd-101/cbd-myths-busted) and cannabis therapeutics.

<http://www.projectcbd.org/cbd-101/cbd-for-pets>

Related story (<http://www.projectcbd.org/cbd-101/cbd-for-pets>)

**Claws and Effect: Cannabis Medicine for Pets**

<http://www.projectcbd.org/cbd-101/cbd-for-pets>



## THE CBD CHALLENGE

CBD is a molecule, not a miracle. Many people could benefit significantly from legal access to a wide range of cannabis remedies, not just low-THC or no-THC products. CBD alone may not always do the trick. There is compelling evidence that CBD works best in combination with THC and the **full spectrum** of other cannabis components.

Figuring out how to optimize one's therapeutic use of cannabis is the driving force behind the great laboratory experiment in democracy known as medical marijuana that's been unfolding state-by-state and country-by-country in recent years.

The advent of potent cannabis oil concentrates, non-intoxicating CBD-rich products, and innovative, smokeless delivery systems has transformed the therapeutic landscape and changed the public conversation about cannabis.

It's no longer a matter of debating whether cannabis has merit as an herbal medication - today the key challenge is discerning how to utilize cannabis for maximum therapeutic benefit. Given its low-risk profile, many people are using CBD as an add-on therapy to their existing treatment plans.

But most health professionals know little about CBD or cannabis therapeutics and they lack sufficient expertise to adequately counsel patients regarding dosage ([//www.projectcbd.org/medicine/cannabis-dosing-101](http://www.projectcbd.org/medicine/cannabis-dosing-101)), modes of administration, CBD/THC synergies, and any risk factors, including interactions with other drugs ([//www.projectcbd.org/how-to/cbd-drug-interactions](http://www.projectcbd.org/how-to/cbd-drug-interactions)).

Instead, the onus has been on a loose-knit community of self-reliant patients, supportive families and a few pioneer physicians who've learned a lot through trial and error and shared information about how to navigate promising avenues of cannabis therapy.



([//www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it](http://www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it))

Related story ([//www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it](http://www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it))

When is CBD Legal and When Isn't It?

([//www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it](http://www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it))

## WHAT ABOUT CBD FROM HEMP?

What began as a grassroots populist rebellion against cannabis prohibition would morph into a multibillion-dollar market catalyzed by the rediscovery of CBD as a wellness option. CBD oil is red hot and it seems that everyone - do-gooders as well as profiteers - wants a piece of the action.



*Cannabis plants*



*Hemp plants*

CBD has also catalyzed the rebirth of the U.S. hemp industry, which lay dormant for decades because of drug war politics. The 2018 Farm Bill (<https://docs.house.gov/billsthisweek/20181210/CRPT-115hrpt1072.pdf>) includes a provision that legalizes the cultivation of hemp (cannabis with less than 0.3 percent THC) in large part because of the popularity and driving economic force of CBD.

Growing hemp is now a legitimate agricultural enterprise in the United States. But extracting CBD-rich oil from hemp biomass and marketing CBD oil concentrates and isolates for ingestion and inhalation steps on Big Pharma's toes and is frowned upon by the DEA and the FDA.

Legalities ([//www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it](http://www.projectcbd.org/politics/when-cbd-legal-and-when-isnt-it)) aside, hemp-derived cannabidiol is just a mouse click or a phone tap away for anyone willing to roll the dice and purchase CBD oil products that are manufactured with little regulatory oversight.

The upside of all this is easy access to CBD oil; the downside is inconsistent quality.

Many hemp-derived CBD oil products are mislabeled ([//www.projectcbd.org/politics/more-fda-warnings-mislabeled-cbd-products-police-raids](http://www.projectcbd.org/politics/more-fda-warnings-mislabeled-cbd-products-police-raids)) as to cannabidiol and THC content. And poorly processed CBD oil may be tainted with toxic solvent residues, pesticides, corn syrup, artificial flavors and colors, and other contaminants.

Fortunately, good quality CBD oil products ([//www.projectcbd.org/find-cbd/dispensaries](http://www.projectcbd.org/find-cbd/dispensaries)) are also available for the conscientious consumer - the label reader, the brand researcher - who understands that cannabis and CBD are best used as part of a healthy lifestyle.

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## RECOMMENDED READING



### Cannabis Oil Extraction ([/guidance/cannabis-oil-extraction](http://guidance/cannabis-oil-extraction))

Safe and effective ways to extract and produce CBD-rich cannabis oil.

([/guidance/cannabis-oil-extraction](http://guidance/cannabis-oil-extraction))



### CBD Myths & Misconceptions ([/cbd-101/cbd-myths-busted](http://cbd-101/cbd-myths-busted))

With the growing awareness of CBD as a potential health aid there's also been a proliferation of misconceptions. Find questions and responses to common misinformation.

([/cbd-101/cbd-myths-busted](http://cbd-101/cbd-myths-busted))



### When is CBD Legal and When Isn't It?

([/politics/when-cbd-legal-and-when-isnt-it](http://politics/when-cbd-legal-and-when-isnt-it))

The Evolving Regulatory Status of Cannabidiol

(/politics/when-cbd-legal-and-when-isnt-it)

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[ABOUT \(/ABOUT/ABOUT-PROJECT-CBD\)](#)

# **EXHIBIT I**

# West Virginia Department of Agriculture

KENT LEONHARDT, COMMISSIONER

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## Next Steps for West Virginia Industrial Hemp

1/14/2019

It's undeniable that West Virginia frequently lags behind the rest of the country when it comes to new ideas and innovative solutions. From healthy initiatives to education, West Virginia all too often scores low marks.

One agricultural initiative that West Virginia has been way ahead on is the development of industrial hemp. In 2002, the West Virginia Legislature tasked the West Virginia Department of Agriculture with setting up a program to support industrial hemp research. This program sat dormant until Congress, through the 2014 Farm Bill, allowed industrial hemp research pilot projects to be established under state departments of agriculture. West Virginia again showed foresight in 2017 when the Legislature expanded that pilot project to allow cultivation of industrial hemp for commercial purposes. Almost two years later, Washington D.C. followed suit and legalized hemp on a national scale through the 2018 Farm Bill.

When President Donald Trump signed the new Farm Bill, industrial hemp was separated from its cannabis cousin, marijuana, and therefore removed from the list of scheduled drugs. Now farmers can grow hemp like any other cash crop, transport it across state lines and use the plant in the processing of numerous products. The United States Department of Agriculture will, over the next several months, promulgate rules and regulations. From there, the public will have its say, and the agency will adjust. Once those rules are finalized, West Virginia will submit its plan to manage the state program, based on requirements laid out by the USDA. This process is no different for the numerous other programs the WVDA works in cooperation with USDA.

In the meantime, the WVDA and West Virginia's industrial hemp program will be in a transition period. We will continue to operate under the current rules and regulations until the USDA establishes its new framework. The WVDA will work with our farmers to understand these changes as they come down from the federal government. Our goal is to ensure a smooth transition through an "educate before regulate" mentality. We want to grow this industry, not hinder it. It is clear our representatives in Washington support a robust industrial hemp industry in the United States, and they have entrusted state departments of agriculture to carry out their intentions.

What we can say for sure is there's a lot of excitement around growing industrial hemp. The WVDA has seen a 300 percent increase in applications for the 2019 growing season. Our challenge will be to match this excitement with the resources for proper management. As of right now, the WVDA receives no state or federal support to manage the program. We lag behind states like Kentucky, which will collect upwards of \$500,000 in fees to support four full-time employees. While we work with the Legislature to find ways to bring in more resources, we know we cannot operate this program on the \$9,000 in fees we collect.

We have numerous challenges ahead, but if we work together, West Virginia can tap into this new market. We need support from Governor Jim Justice and our West Virginia Legislature as we work through this process. We need to work with law enforcement to ensure illegal drugs are not being

grown alongside legal crops. Farmers will have to understand how to comply with laws while formulating best practices. As the regulatory agency, the WVDA will need to provide more support to our farmers in the early years, as this industry gets off the ground.

My staff and I stand ready to help our farmers take advantage of this new agricultural frontier. Our promise to them is we will work with our federal partners and the Legislature on this and other projects to bring economic diversity to the state. Failure is not an option. We must succeed or continue to fall behind.

Kent A. Leonhardt  
West Virginia Commissioner of Agriculture

## Contact Information

Crescent Gallagher, Communications Director [cgallagher@wvda.us](mailto:cgallagher@wvda.us), 304-558-3708 or 304-380-3922

# **EXHIBIT J**



(<https://hempindustrydaily.com>)

# Sales of hemp products in Kentucky surged in 2018

Published March 19, 2019

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Kentucky's resurgent hemp sector flexed more

economic clout in 2018, with processors reporting

sharply higher sales and farmers reaping more than

twice as much income from the crop.

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The state's hemp processors reported \$57.75 million in gross product sales last year, compared with \$16.7 million in 2017, Kentucky Agriculture Commissioner Ryan Quarles said Monday.

Processors spent \$23.4 million on capital improvements and employed a total of 459 people in 2018.

Kentucky farmers were paid \$17.75 million for harvested hemp materials in 2018, up from \$7.5 million the year before.

The numbers were based on licensed processors' reports to the Kentucky Department of Agriculture and provided a snapshot of hemp's growth heading into a new era of full legalization.

"We are building the critical mass (<http://www.kyagr.com/>) of growers, processors and researchers that will ensure the hemp industry's success in Kentucky for years to come," Quarles said in a news release.

Last year's surge in processor sales and the amount paid farmers came before hemp was legalized as a farm commodity as part of the 2018 Farm Bill (<https://hempindustrydaily.com/2018-farm-bill-report/>).

More than 50,000 acres have been approved for Kentucky hemp production in 2019, more than triple the approved acreage in 2018.

The number of approved hemp growers for 2019 is set

to be 1,047, nearly five times higher than in 2018. This site uses cookies as described in our [Cookie Policy](https://hempindustrydaily.com/privacy-policy-copyright/cookie-policy/) (<https://hempindustrydaily.com/privacy-policy-copyright/cookie-policy/>). You may change your settings at any time. By continuing to use our site, you

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In 2018, 210 Kentucky farmers planted more than 6,700 acres of hemp and 33 acres in 2014, the first year the crop could be grown on an experimental basis.

Kentucky's agriculture department has approved 110 hemp processor/handler license applications so far for 2019 and expects more applications, Quarles said.

It also has approved more than 6 million square feet of greenhouse space for hemp cultivation.

Quarles cautioned that the hemp sector is in the "beginning stages" of its transition to full commercialization and urged growers and processors to be "clear-eyed" about the opportunities and challenges.

"Like all crops and business ventures, there is risk in this industry," he said.

- Associated Press and Hemp Industry Daily

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# **EXHIBIT K**



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# White-hot New York CBD manufacturing scene undeterred by tougher regulations

Published February 14, 2019 | By [Hemp Industry Daily staff](#) (</about-us/staff/#editorial-staff>)

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CBD manufacturing in New York continues to heat up with at least two hemp companies

announcing plans for extraction facilities to compete with huge manufacturing investments expected from out of state.

The new factories – one in a [former newspaper printing plant](https://www.prnewswire.com/news-releases/southern-tier-hemp-announces-purchase-of-former-gannett-printing-plant-to-create-the-largest-industrial-hemp-processing-facility-in-new-york-state-300789635.html) near Binghamton and the Pennsylvania border, the other in a [former U.S. Postal Service facility](http://cgocorp.com/2019/02/05/e-update-jushi-inc-awarded-new-york-state-industrial-hemp-license-commits-invest-upstate-new-york/) in Buffalo – come as New York Gov. Andrew Cuomo has vowed to make his state a hemp manufacturing hub.

“New York state has taken the approach of, ‘We want to be the standard by which others measure themselves,’” said Michael Falcone, CEO of Southern Tier Hemp, which bought the former printing plant.

Southern Tier grew about 50 acres of hemp in New York in 2018 and plans to expand up to 10 times this year, he said. The company received a [\\$650,000 grant](#)

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state to convert the printing plant into a CBD-extraction facility.

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That kind of rapid expansion underscores a [hemp boom \(https://hempindustrydaily.com/hemp-state-highlight-new-york-5-million-plan-become-hemp-processing-hub/\)](https://hempindustrydaily.com/hemp-state-highlight-new-york-5-million-plan-become-hemp-processing-hub/) happening across New York despite [new limits \(https://hempindustrydaily.com/new-york-state-bans-cbd-foods-vape-products/\)](https://hempindustrydaily.com/new-york-state-bans-cbd-foods-vape-products/) on CBD manufacturing and a reported [crackdown on CBD-infused foods \(https://hempindustrydaily.com/new-york-city-maine-latest-jurisdictions-cbd-legal-confusion/\)](https://hempindustrydaily.com/new-york-city-maine-latest-jurisdictions-cbd-legal-confusion/) in New York City.

The Empire State had just 21 licensed growers in late 2017; it now has nearly 150, according to national hemp advocacy group Vote Hemp.

### **Canada moving in**

Last month, Canopy Growth (NYSE: [CGC](https://www.nyse.com/quote/XNYS:CGC)) (<https://www.nyse.com/quote/XNYS:CGC>), an Ontario marijuana producer and the world's largest cannabis company by market valuation, said it [acquired a New York hemp license \(https://hempindustrydaily.com/canada-marijuana-titans-u-s-hemp-industry/\)](https://hempindustrydaily.com/canada-marijuana-titans-u-s-hemp-industry/) and plans to spend 200 million Canadian dollars (\$152 million) to grow and process hemp in New York.

Canopy hasn't released details of its New York plans, other than saying it will build a hemp processing facility, also near Binghamton.

The Buffalo investment comes from Sound Wellness, a subsidiary of Florida hemp and marijuana company

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The state is attracting CBD manufacturers because of its new stiff manufacturing rules, not in spite of them, said Steve Przybyla, president of Jushi.

That's because New York manufacturers will be better positioned to sell nationally once federal CBD regulations drop, he said.

"New York has created nation-leading regulatory standards that we think are going to mean high-quality CBD products," said Przybyla, whose company plans to spend about \$5 million on the Buffalo plant.

### Smaller processors wary

New York's existing hemp manufacturers are cheering the influx of processing investment, even as they worry whether New York's supply of raw hemp can sustain them all.

"We're definitely up and coming, and it's good to see that money's coming in here," said Chris VanDusen, president of Empire Hemp Co., a grower, processor and retailer near Rochester.

"I just hope we don't get too many processors, to where we get oversaturated."

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One comment on “White-hot New York CBD manufacturing scene undeterred by tougher regulations”

[Adrienne \(http://finelineproduction.com/\)](http://finelineproduction.com/) on [March 2nd, 2019 - 10:58am](#)  
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Without a doubt, the hemp/medical marijuana and cbd  
oil industries are not not not right now. It's my opinion  
that this positive trend in the industry will not slow down  
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# **EXHIBIT L**



## THE SHRINKING ROLE OF TOBACCO FARMING AND TOBACCO PRODUCT MANUFACTURING IN THE UNITED STATES' ECONOMY

### National Tobacco Farming Trends

Tobacco farming in the United States has been shrinking for years, with fewer tobacco farms producing less tobacco and playing an increasingly smaller role in the state's economy. In 2005, the \$10 billion buyout of tobacco farmers and quota holders as part of the termination of the federal tobacco price support program sharply accelerated these trends. Smaller family tobacco farms are no longer the rule but the exception as larger agribusinesses have taken their place.

	1992	2002	2012	2002-2012 Change	2002-2012 Change %
All Farms in USA	1,925,300	2,128,982	2,109,303	-19,679	-0.9%
All Tobacco Farms	124,270	56,977	10,014	-46,963	-82.4%
Tobacco farms of less than 50 acres	121,679	55,156	1,561	-53,595	-97.2%
Total Farm Acreage in USA	945,531,506	938,279,056	914,527,657	-23,751,399	-2.5%
Tobacco Farm Acreage	831,231	428,631	342,932	-85,699	-20.0%
Tobacco Farm Acreage - Percent of Total	0.09%	0.05%	0.04%	NA	NA

Source: U.S. Department of Agriculture, *2012 Census of Agriculture*, May 2014, and earlier editions (Census is done every five years), <http://www.agcensus.usda.gov/index.asp>.

### National Tobacco Product Manufacturing Employment

In 2015 (the most recent year available), tobacco product manufacturing employment made up about one-tenth of one percent of all manufacturing jobs in the U.S. Even in the two states with the most tobacco manufacturing (North Carolina & Virginia), related employment makes up less than 2% of all state manufacturing jobs, and even smaller fractions of total employment.

	1997	2003	2006	2011	2015
Total USA manufacturing employment	16,885,806	13,865,811	12,984,696	10,596,479	11,166,953
Tobacco product manufacturing employment	33,635	24,516	19,649	13,943	12,868

Source: U.S. Census Bureau, Annual Survey of Manufactures.

### National Sales of Cigarettes

Taxed cigarette pack sales have also declined considerably in United States over the past decade, making them a less significant factor in total retailer sales.

	2005	2015	Change	Change %
Total Annual Cigarette Pack Sales	19,456 million	13,317 million	-6,139.0 million	-31.6%

Source: Orzechowski & Walker, *The Tax Burden on Tobacco*, 2015, annual industry-funded historical compilation.

### The Toll of Smoking and Other Tobacco Use in the USA

While the number of farms and jobs from tobacco farming and manufacturing have been declining sharply in the United States, the harms and costs from smoking in the country remain high. For example:

Smoking-caused deaths in the USA each year:	480,000+
Annual smoking-caused excess healthcare costs in the USA:	Approx. \$170 billion

Source: U.S. Department of Health and Human Services, *The Health Consequences of Smoking: 50 Years of Progress: A Report of the Surgeon General*, 2014. Healthcare costs in 2010 dollars. Xu, X et al., "Annual Healthcare Spending Attributable to Cigarette Smoking: An Update," *Am J Prev Med*, 2014.

More active federal efforts to prevent and reduce smoking and other tobacco use would improve public health; save lives; increase worker productivity; reduce government, business and household costs; and strengthen the country's budget and economy.

*Campaign for Tobacco-Free Kids, October 17, 2017*

# **EXHIBIT M**



# Oregon

Kate Brown, Governor

Department of Agriculture

635 Capitol St NE  
Salem, OR 97301-2532



March 6, 2019

The Honorable Sonny Perdue  
Secretary, United States Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250

Dear Secretary Perdue,

The Oregon Department of Agriculture (ODA) is excited by the opportunities provided with the signing of the Agriculture Improvement Act of 2018 (2018 Farm Bill) by President Trump on December 20, 2018. Specifically, the provisions in the Hemp Farming Act of 2018 which removed hemp and its derivatives from the list of controlled substances, established hemp as a legal agricultural commodity, and authorized the production, consumption, and sale of hemp and hemp-derived products in the United States.

As a state at the forefront of hemp production under the hemp pilot programs, ODA is eagerly awaiting direction from the United States Department of Agriculture (USDA) regarding requirements for state implementation plans. In the meantime, Oregon is submitting this letter of intent with current statutes and rules attached.

Our hemp registrations are valid for a calendar year; each year we have seen a significant increase in the number of participants and acreage registered in Oregon.

Registration Year	No. of Growers	No. of Handlers	No. Acres
2015	13	13	105
2016	83	66	1,200
2017	246	189	3,000
2018	584	212	11,754
2019 (as of March 5 <sup>th</sup> )	615	232	~20,278

The passage of the 2018 Farm Bill was clear: interstate transportation of hemp is allowed, once a state's implementation plan has been submitted and approved. With the delay in rules until the 2020 crop year, Oregon's hemp industry is being subjected to unnecessary transportation and commerce restrictions and has examples to provide if needed.

While USDA engages in the rule making process for Section 10113 and 10114 of the 2018 Farm Bill, having additional guidance to allow the flow of hemp in interstate commerce would be critical to farmers in Oregon.

ODA looks forward to continuing our work with the USDA and other federal partners to make hemp a viable industry for farmers in Oregon and across the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexis M. Taylor". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Alexis M. Taylor  
Director, Oregon Department of Agriculture

cc: Deputy Secretary Steve Censky, U.S. Department of Agriculture  
Under Secretary Greg Ibach, Market and Regulatory Programs, U.S. Department of Agriculture

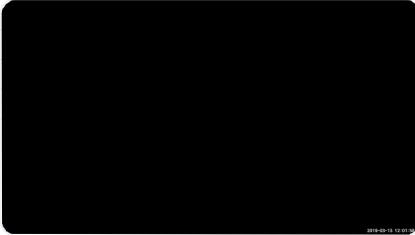
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Oregon Administrative Rules 603-048: Industrial Hemp

# **EXHIBIT N**



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### Audio Transcript

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**Jeffrey Davis**

- 00:00:01 Good afternoon and welcome to USDA's Hemp webinar. Thank you for joining us. I'm Ashley Gariggus and I'll be moderating today's session. First, I would like to introduce Agricultural Marketing Service Administrator Bruce Summers.
- 00:00:14 Well, good afternoon on the east coast and good morning on the west coast. Thank you for taking the time to join our webinar today. We're excited to be kicking this off and we're looking forward to the robust session.
- 00:00:30 President Trump signed the Agriculture Improvement Act of 2018, better known as the 2018
- 00:00:36 Farm Bill on December 20th. In it were provisions allowing USDA to approve plans submitted by states, territories, and Indian tribes for the commercial production of hemp.
- 00:00:48 The Farm Bill also tasked USDA to establish a program for producers located in the states or in the territories, or controlled by tribal governments, that does not have a USDA-approved plan. We're currently formulating our plans here at USDA for how will implement these Farm Bill provisions for him.

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