

# Judge Declines Block: South Dakota's Intoxicating Hemp Ban Now Law

A new law set to bar the production or sale of high-inducing hemp-derived cannabis products will go into effect on Monday, following a judge's decision not to block it despite legal challenges. Hemp Quarters 605, a Pierre-based shop specializing in these products, filed a lawsuit arguing that the law is unconstitutional and conflicts with federal regulations.

## Federal Framework and State Law

The 2018 federal Farm Bill legalized industrial hemp and its derivatives containing less than 0.3% THC. This legislation aimed to differentiate hemp from marijuana, allowing for its cultivation and interstate transportation under federal law. However, House Bill 1125, signed into law by Gov. Kristi Noem in March, takes a stricter stance on certain hemp-derived chemicals that mimic the psychoactive effects of THC. The bill specifically targets five types of chemicals found in hemp plants, which, when synthesized or added in large quantities, can create intoxicating effects akin to delta-9 THC found in marijuana.

## Legal Implications and Enforcement

Under the new law effective July 1, violating these provisions constitutes a class 2 misdemeanor in South Dakota, the state's lowest-level criminal offense. This legislative move by South Dakota reflects its stance on hemp products that blur the line between legal industrial hemp and illegal marijuana, which remains prohibited at the federal level despite varying state-level legalization efforts.

## Court Decision and Future Impact

Hemp Quarters 605's legal challenge argued that HB 1125 infringes on the U.S. Constitution's commerce clause by hindering the sale of federally legal products across state lines. At a recent hearing in U.S. District Court, Judge Eric Schulte declined to grant a preliminary injunction, which would have temporarily blocked the law's enforcement pending further court proceedings. The judge ruled that while the law does restrict local production and distribution of certain hemp-derived products, it does not extend to criminalizing the possession of federally compliant hemp products passing through the state.

## Implications for Business and Consumers

The decision has immediate implications for businesses like Hemp Quarters 605, where hemp-derived products constitute a significant portion of their retail offerings. Despite the legal setback, the court's decision does not preclude further legal challenges or potential revisions to South Dakota's hemp laws. The ongoing legal and regulatory landscape surrounding hemp and cannabis products underscores the complex interplay between state and federal regulations, impacting businesses, consumers, and legal frameworks nationwide.

As South Dakota prepares to implement HB 1125, the state remains firm in its stance on hemp-derived products that may pose public health and regulatory challenges. The court's decision reflects a balancing act between state sovereignty to regulate within its borders and federal mandates on hemp and cannabis. The outcome of this legal dispute will likely influence future legislative efforts and legal precedents concerning hemp and cannabis regulations across the United States.

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