

# Hemp THC ‘Prohibition’ Looms as Senate Closes Farm Bill Loophole

## Senate Votes to Ban Nearly All Hemp-Derived THC Products by 2026, Triggering Industry Alarm

Nearly all hemp derived THC products in the United States will become illegal by late 2026 under sweeping legislation passed by the U.S. Senate on Monday night, marking the most significant federal crackdown on the hemp sector since the 2018 Farm Bill.

The ban, embedded deep within a series of spending bills designed to end the record-breaking government shutdown, passed in a 60–40 vote. The legislation effectively rewrites the federal definition of hemp to exclude the intoxicating cannabinoids that have flourished nationwide over the past six years products that range from delta-8 vapes to THCA flower and THC-infused beverages.

A last-minute effort by Sen. Rand Paul (R-KY) to strip the language from the bill failed.

The entire package, including the hemp restrictions, now heads to the House of Representatives, where Speaker Mike Johnson (R-LA) signaled a vote as early as Wednesday.

## White House Signals Full Support for the Ban

Supporters of legal hemp faced another major setback when the White House confirmed Monday that President Donald Trump supports the Senate’s language closing the so-called “Farm Bill loophole.”

To stop it, House Republicans would need to defy the president—a scenario viewed by insiders as unlikely.

If enacted, the ban will take effect 365 days after passage, giving regulators and industry just one year to respond.

“The bill makes the hemp industry kaput,” Paul said, warning that under the new definition, “every (hemp) plant in the country will have to be destroyed.”

Attorney Seth Goldberg, co-chair of the cannabis and hemp practice at Pashman Stein Walder Hayden, said businesses should immediately prepare for the likelihood that their products “will lose the safe harbor under the current 2018 Farm Bill.”

“It would be prudent for hemp-related companies to begin thinking through how such changes will impact various aspects of their business,” he said particularly as major retailers including Total Wine & Spirits, Circle K, and Target now sell hemp THC beverages.

# What the Ban Actually Does: THCA and Synthetic Cannabinoids Directly Targeted

The ban is written into the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act—an appropriations bill released by Senate negotiators over the weekend.

The new federal definition of hemp would cover only:

“The plant *Cannabis sativa* L., and all derivatives, extracts, and cannabinoids... with a total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid) of not more than 0.3 percent on a dry weight basis.”

This closes the THCA loophole, which has supported a booming nationwide market for “THCA flower” sold outside of regulated cannabis dispensaries. That market alone is valued in the hundreds of millions annually.

Additionally, the legislation excludes cannabinoids that:

- Are not naturally produced by the plant, such as HHC
- Are synthesized outside the plant, such as THC-P

In practice, this would eliminate nearly every intoxicating hemp product currently on the market, from delta-8 gummies to THC seltzers.

The bill would also override state laws, including in states like Minnesota and New York where hemp-derived THC beverages have become mainstream retail products.

## A Growing Movement Behind the Ban

The 2018 Farm Bill unintentionally launched a thriving \$28.4 billion hemp industry, according to the U.S. Hemp Roundtable. Hemp products quickly appeared in gas stations, grocery stores, and major retail chains often without age limits, potency caps, or standardized testing.

But the rapid growth earned the ire of:

- The \$32 billion regulated marijuana industry, which argued that hemp THC products were escaping taxes and safety rules
- Alcohol companies, who viewed THC beverages as a competitive threat
- State attorneys general, who demanded federal action
- Key Republican lawmakers, including Rep. Andy Harris and Sen. Mitch McConnell, who helped legalize hemp in 2018 but now favor tighter restrictions

Support for a ban accelerated throughout 2024, especially during the months-long government shutdown.

In October, 39 state attorneys general urged Congress to close the loophole. More recently, major alcohol lobbies urged senators to keep the ban in place, arguing that unregulated intoxicating hemp products endanger consumers.

## Small Businesses Fear Collapse, While Cannabis MSOs Celebrate

The ban is expected to devastate thousands of hemp businesses, especially small manufacturers and breweries that added THC seltzers to supplement declining alcohol sales.

“The rug just got pulled out from under us,” said Omar Ansari, president of Surly Brewing Co. in Minnesota, which invested heavily in hemp THC beverages.

Hemp retailers expressed outrage as well.

“What happened was sneaky, and it’s not how this country was supposed to work,” said Steven Brown, CEO of Nothing But Hemp. “Big liquor and medical marijuana see us as a threat and would rather shut us down than compete fairly.”

However, large multistate cannabis operators (MSOs) welcomed the Senate’s move.

“This is long-overdue cleanup,” said Trent Woloveck, chief strategy officer at Jushi Holdings, which recently filed lawsuits against hemp THC sellers in Virginia and Pennsylvania. “The regulated cannabis industry can now get back to normalizing cannabis without the bad actors exploiting the Farm Bill loophole.”

## **What Happens Next**

The legislation now awaits action in the House. If the House passes the bill and Trump signs it, the hemp industry will face the largest regulatory upheaval in its history.

Many businesses may be forced to shut down or reformulate into non-intoxicating products.

Attorneys, trade groups, and retailers are advising companies to:

- Prepare for major product changes
- Begin contingency planning for reformulation
- Assess supply chain and retail disruptions
- Expect litigation and state-level battles after passage

For now, the future of hemp-derived THC rests in the hands of House lawmakers—and the political pressure mounting behind them.

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