

FDA CBD Enforcement Encouraging, Congress Must Act (Op-Ed)

FDA Signals New Flexibility on Hemp-Derived CBD Products, but Limited Enforcement Approach Highlights Ongoing Regulatory Uncertainty Across a Rapidly Growing Market

For years, the hemp-derived CBD sector has existed in a legal gray zone federally permitted yet lacking the regulatory clarity needed to ensure consumer confidence and long-term business stability. A recent move by the U.S. Food and Drug Administration to exercise enforcement discretion for certain CBD products marks a notable shift, but industry observers say it underscores just how incomplete the current framework remains.

At issue is the agency's decision not to enforce specific provisions of the Federal Food, Drug, and Cosmetic Act against qualifying orally administered CBD products under narrow conditions. The move signals a more pragmatic stance, acknowledging that hemp-derived cannabinoids have become embedded in everyday wellness routines for millions of Americans.

FDA's Position Reflects Growing Recognition of CBD as a Mainstream Wellness Product, With Parallels to Dietary Supplement Regulation

The agency's approach suggests a potential pathway for CBD products that resembles the regulatory model established under the Dietary Supplement Health and Education Act of 1994. That framework governs vitamins, nutraceuticals and other over the counter wellness products, emphasizing safety, labeling and responsible marketing.

By adopting a similar posture, the FDA appears to be aligning policy with how consumers already use CBD—for sleep support, stress management, recovery and general well-being.

Industry analysts say this marks a turning point in how cannabinoids are discussed at the federal level, moving away from prohibition-era assumptions and toward integration within established health product categories.

Despite Encouraging Signals, FDA Action Falls Short of Formal Approval or Comprehensive Regulation for CBD Products

However, the agency's move stops well short of full regulatory approval. It does not classify CBD as "Generally Recognized As Safe" (GRAS), nor does it establish durable legal protections for the broader market.

Instead, it represents a limited policy of selective enforcement. Products must meet strict criteria, including adherence to supplement-style standards, avoidance of contaminants, restrictions on marketing to children and distribution within specific healthcare-related frameworks.

Critically, the policy applies only to a narrow subset of use cases leaving the vast majority of CBD products sold through retail, e-commerce and direct to consumer channels outside its scope.

Expanding Consumer Demand and a Multibillion-Dollar Industry Continue to Outpace Federal Policy and Create Market Fragmentation

Since the passage of the Agriculture Improvement Act of 2018, hemp-derived products have evolved into a multibillion-dollar industry. They have expanded access to cannabinoids nationwide and helped normalize cannabis-related products beyond state-regulated marijuana markets.

Consumers have increasingly incorporated CBD into daily routines, while businesses from small startups to national platforms—have invested heavily in product development, testing and compliance.

Yet the absence of consistent federal standards has led to a fragmented regulatory environment. States have adopted varying rules, and federal agencies have issued mixed guidance, creating uneven enforcement and uncertainty for operators.

Lack of Clear Federal Standards Leaves Responsible Businesses Competing With Bad Actors in a Risk-Prone Marketplace

Industry stakeholders warn that the current patchwork system disadvantages companies that invest in quality and compliance. Without uniform standards, these businesses must compete with less scrupulous operators exploiting regulatory gaps.

The result is a market that functions but lacks efficiency and, in some cases, adequate consumer protections.

Experts emphasize that while the FDA's latest move is encouraging, it does not resolve these systemic issues. Selective enforcement offers temporary flexibility but does not provide the long-term certainty needed to support investment, innovation and consumer trust.

Lawmakers Face Growing Pressure to Establish a National Framework as Policy Gaps Risk Undermining Industry Progress

The need for congressional action is becoming increasingly urgent, particularly as recent legislative proposals introduce new ambiguity around the definition of hemp and the status of certain cannabinoid products.

Observers warn that overly restrictive or unclear rules could push demand toward unregulated or imported products, raising safety concerns while undermining domestic supply chains built since 2018.

Farmers, manufacturers and retailers many of whom have operated in good faith could face significant disruption if federal policy shifts abruptly without a clear transition framework.

FDA's Incremental Approach Signals Momentum, but Industry Leaders Say Only Congress Can Deliver Lasting Regulatory Clarity

While the FDA's emphasis on safety, labeling and responsible marketing aligns with industry best practices, stakeholders say these principles must be applied broadly rather than selectively.

The agency's latest action reflects growing consensus within the executive branch and among lawmakers that a comprehensive federal framework is needed. It also demonstrates a willingness to integrate cannabinoids into existing regulatory systems.

Still, experts stress that enforcement discretion is not a substitute for legislation.

Only Congress, they argue, can establish consistent national standards governing manufacturing, distribution and consumer access unlocking the full potential of hemp derived cannabinoids while ensuring safety and transparency.

As CBD Market Continues to Expand, the Path Forward Depends on Whether Policymakers Can Move Beyond Temporary Measures to Lasting Reform

The opportunity presented by hemp-derived cannabinoids is significant. Advocates say these products could reshape how Americans approach wellness by offering accessible, plant-based alternatives that complement traditional care.

But realizing that potential will require more than incremental policy shifts.

For now, the FDA's move represents a meaningful step forward one that acknowledges current realities while highlighting the urgent need for comprehensive reform.

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