

House Committee Approves Amendment to Ban Most Hemp-Derived Cannabinoid Products Including Delta-8 THC

A key House committee has amended a large-scale agriculture bill in a way that would impose a general ban on hemp-derived cannabinoids such as delta-8 THC. Industry stakeholders are concerned that the measure's scope could federally criminalize many CBD products since it covers all ingestible hemp products with any level of THC.

If enacted into law, cannabinoids that are "synthesized or manufactured outside of the plant" would no longer meet the definition of legal hemp.

Provisions to Support Hemp Farmers

The legislation, set to advance through the House Agriculture Committee, also contains provisions to reduce regulatory barriers for certain hemp farmers and scale back a ban on industry participation by people with prior drug felony convictions.

Adoption of the Cannabinoid Ban Amendment

Members adopted the cannabinoid ban amendment from Rep. Mary Miller (R-IL) as part of an en bloc package with other unrelated changes in a voice vote. The overarching bill cleared the committee later in the day.

Rationale Behind the Ban

The move follows a push from prohibitionists and certain marijuana companies who argued in favor of restricting cannabinoid products, describing it as a fix to a "loophole" created under the 2018 Farm Bill that federally legalized hemp.

"The 2018 Farm Bill has wrongly been used to justify the mass production and sale of unregulated intoxicating hemp products," said USCC Executive Director Ed Conklin. "We support a uniform approach to regulating intoxicating THC products."

Bipartisan Perspectives on the Amendment

Rep. John Rose (R-TN) said the amendment "contains the clarification needed to decipher accurately the intentional and unintentional products currently developed under the 2018 definition of hemp." Meanwhile, Rep. Abigail Spanberger (D-VA) expressed support for the amendment, highlighting the benefit it would have for Virginia farmers.

However, several Republican members of the committee opposed the amendment. Rep. Jim Baird (R-IN) stated, “American farmers deserve the certainty afforded with the current definition of hemp,” while Rep. Derrick Van Orden (R-WI) voiced concerns about the amendment’s impact on businesses.

Industry Stakeholders’ Response

Jonathan Miller, general counsel at the U.S. Hemp Roundtable, expressed strong opposition to the amendment, urging lawmakers to defeat it. “The Mary Miller Amendment throws the baby out with the bathwater, devastating a vibrant industry, killing tens of thousands of agriculture and retail jobs, and denying access to popular products that Americans count on for their health and wellness,” he said.

Additional Provisions in the Bill

Beyond the cannabinoid ban, the bill as drafted includes provisions to revise the definition of hemp and create separate categories for producers growing the crop for cannabinoid extraction and for “industrial hemp” producers. It also proposes allowing USDA to independently accredit laboratories to conduct sample testing and eliminate the policy preventing people with felony drug convictions from being licensed to produce industrial hemp.

Ongoing Legislative Efforts

The Senate Agriculture Committee has yet to release the draft text of its Farm Bill, and there are hopes for more expansive language regarding hemp producers. Additionally, the bill includes a provision to prevent state agencies from denying public assistance benefits to people with felony drug convictions.

State and Federal Regulatory Conflicts

State marijuana regulators have proposed updating agriculture legislation with provisions clarifying states’ rights to enact their own regulations for hemp-based intoxicating cannabinoids. This follows litigation asserting that federal law preempts such rulemaking.

Market Dynamics and Regulatory Challenges

The hemp market started to rebound in 2023 after suffering significant losses the prior year. Bipartisan lawmakers and industry stakeholders have criticized the FDA for declining to enact regulations for hemp-derived CBD, which is seen as a cause for economic stagnation in the industry.

Future of the Amendment

The approval of the amendment by the House committee sets the stage for potential conflicts with the Democratic-controlled Senate, which has yet to release its version of the Farm Bill. Lawmakers and stakeholders continue to debate the best approach to regulating hemp-derived cannabinoids and ensuring public safety while supporting industry growth.