

[DISCUSSION DRAFT]

119TH CONGRESS
2D SESSION

H. R. _____

To preserve lawful hemp commerce while protecting consumers from high-THC synthetic intoxicants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BARR introduced the following bill; which was referred to the Committee on

A BILL

To preserve lawful hemp commerce while protecting consumers from high-THC synthetic intoxicants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lawful Hemp Protection Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Protecting minors and preventing children’s access to hemp products is central to the public interest and to the long-term credibility of the hemp industry. Strong age-control

measures are necessary to prevent misuse and safeguard public health.

(2) Many Americans, including veterans and seniors, rely on consumer hemp products for wellness. Ensuring that such products are consistently manufactured, accurately labeled, and domestically sourced is essential to maintaining public trust and protecting consumers.

(3) Clear provenance standards and the elimination of deceptive or lookalike products promote responsible industry growth, protect consumers, and reinforce confidence in lawful hemp commerce.

SEC. 3. DEFINITION OF HEMP.

Effective as if included in the enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (division B of Public Law 119–37), section 781 of such Act is amended to read as follows:

“SEC. 781. (a) Effective 365 days after the enactment of this Act, section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o) is amended—

“(1) by redesignating paragraphs (2) through (6) as paragraphs (4) through (8), respectively; and

“(2) by striking paragraph (1) and inserting the following:

“ ‘(1) HEMP.—

“ ‘(A) IN GENERAL.—The term ‘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 concentration of not more than 1 percent on a dry weight basis.

“ ‘(B) FINAL-FORM TESTING.—For purposes of this paragraph, the delta-9 tetrahydrocannabinol concentration of

hemp shall be measured on the finished consumer product and not on raw, floral material or any work-in-process material, including an unfinished hemp ingredient.

“ ‘(C) INCLUSION.—Such term includes industrial hemp.

“ ‘(D) EXCLUSIONS.—Such term does not include any viable seeds from a *Cannabis sativa* L. plant that exceeds a delta-9 tetrahydrocannabinol concentration of more than 1 percent on a dry weight basis.

“ ‘(2) INDUSTRIAL HEMP.—The term ‘industrial hemp’ means hemp—

“ ‘(A) grown for the use of the stalk of the plant, fiber produced from such a stalk, or any other non-cannabinoid derivative, mixture, preparation, or manufacture of such a stalk;

“ ‘(B) grown for the use of the whole grain, oil, cake, nut, hull, or any other non-cannabinoid compound, derivative, mixture, preparation, or manufacture of the seeds of such plant;

“ ‘(C) grown for purposes of producing microgreens or other edible hemp leaf products intended for human consumption that are derived from an immature hemp plant that is grown from seeds that do not exceed the threshold for delta-9 tetrahydrocannabinol concentration specified in paragraph (1)(D)(i);

“ ‘(D) that is a plant that does not enter the stream of commerce and is intended to support hemp research at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or an independent research institute; or

“(E) grown for the use of a viable seed of the plant produced solely for the production or manufacture of any material described in subparagraphs (A) through (D).

“(3) UNFINISHED HEMP INGREDIENT.—The term ‘unfinished hemp ingredient’ means an oil, extract, concentrate, distillate, or other intermediate substance derived from hemp that is not intended for consumer use, is not a finished hemp product, and is produced solely for incorporation into a finished hemp product through further processing. An unfinished hemp ingredient may contain concentrations of delta-9 tetrahydrocannabinol exceeding 1 percent during processing, provided that the material remains exclusively within the manufacturing chain and is not offered for retail sale.’

“(b) Within 90 days of the enactment of this Act, the Food and Drug Administration, in consultation with other relevant Federal agencies, shall publish—

“(1) a list of all cannabinoids known to FDA to be capable of being naturally produced by a *Cannabis sativa* L. plant, as reflected in peer reviewed literature; and

“(2) a list of all tetrahydrocannabinol class cannabinoids known to the agency to be naturally occurring in the plant.”.

SEC. 4. FDA OVERSIGHT AND MILLIGRAM LIMITATIONS.

(a) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in paragraph (ff)(3)—

(A) in subparagraph (A), by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following:

“(B) include a hemp-derived consumer product;

“(C) for the purposes of sections 402(g) and 415, include an unfinished hemp ingredient; and”; and

(2) by adding at the end the following:

“(tt) (1) The term ‘hemp-derived consumer product’ means any finished product derived from hemp that is intended for human ingestion (including inhalation, topical application, and sublingual absorption) and that contains cannabinoids.

“(2) The term ‘unfinished hemp ingredient’ means an oil, extract, concentrate, distillate, or other intermediate substance derived from hemp that is not intended for consumer use, is not a finished hemp product, and is produced solely for incorporation into a finished hemp product through further processing. An unfinished hemp ingredient may contain concentrations of delta-9 tetrahydrocannabinol exceeding 1 percent during processing, provided that the material remains exclusively within the manufacturing chain and is not offered for retail sale.

“(3) For the purposes of this paragraph, the term ‘hemp’ has the meaning given such term in section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o), as in effect beginning on the date that is 365 days after the date of enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (division B of Public Law 119–37).”.

(b) ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

“(j) If it is a dietary supplement that is a hemp-derived consumer product, and—

“(1) its cannabinoid content exceeds a maximum allowable amount established by the Secretary under section 425(a);

“(2) it contains a substance that is produced entirely by non-hemp synthetic means or that does not originate from materials extracted from hemp; or

“(3) it is not derived exclusively from hemp cultivated in the United States, processed within the United States, and finished, packaged, and labeled within the United States.”.

(c) MISBRANDING.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

“(z) If it is a dietary supplement that is a hemp-derived consumer product, and its labeling does not adhere to the requirements described in section 425(b).

“(aa) If it is a dietary supplement that is a hemp-derived consumer product whose name, branding, labeling, or packaging constitutes a violation of section 43(a) of the Trademark Act of 1946 (15 U.S.C. 1125(a)), as determined by the Secretary, including packaging or trade dress that imitates or mimics a trademarked or well-known product so as to be likely to cause consumer confusion as to the product’s source, affiliation, or endorsement.”.

(d) HEMP-DERIVED CONSUMER PRODUCTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

“SEC. 425. HEMP-DERIVED CONSUMER PRODUCTS.

“(a) MAXIMUM CANNABINOID CONTENT.—

“(1) ESTABLISHMENT; REVIEW.—Not later than 18 months after the date of enactment of this section, the Secretary shall establish for each cannabinoid present in a hemp-derived consumer product a maximum allowable amount of such cannabinoid per serving of such product. The Secretary shall review and, as appropriate, revise such maximum allowable amounts not less frequently than—

“(A) once every 5 years; or

“(B) as soon as scientific evidence warrants reconsideration.

“(2) RULEMAKING.—The Secretary shall establish and revise the maximum allowable amounts under paragraph (1) through a notice-and-comment rulemaking process that is informed by—

“(A) peer-reviewed scientific research on the safety and physiological effects of individual cannabinoids;

“(B) consumer usage data and adverse event reports;

“(C) input from qualified medical and scientific experts;

“(D) consultation with State regulatory authorities with experience overseeing hemp or cannabis markets; and

“(E) consideration of product form, intended use, and target consumer population.

“(b) LABELING REQUIREMENTS.—A hemp-derived consumer product shall adhere to the following labeling requirements:

“(1) Its principal display panel shall display, in a font size not smaller than 8 points, the statement ‘Contains __ mg THC per serving and __ mg THC per package. For users 21+ only.’, where the blanks shall be filled in with the applicable quantity of THC in milligrams per serving and per package, respectively.

“(2) (A) Its principal display panel shall bear the following statement: ‘GOVERNMENT WARNING: (1) According to the Surgeon General, women should not consume hemp products during pregnancy because of the risk of birth defects. (2) Consumption of hemp products impairs your ability to drive a car or operate machinery.’.

“(B) The statement under subparagraph (A) shall—

“(i) appear in a conspicuous and prominent location on the principal display panel;

“(ii) be printed in a font size not smaller than 6 points, or not smaller than the smallest type size used elsewhere on the label, whichever is larger;

“(iii) appear in a color that contrasts with the background on which it appears; and

“(iv) include the words ‘GOVERNMENT WARNING’ in capital letters and bold type.”.

(e) APPLICABILITY.—The amendments made by this section shall only apply with respect to products introduced or delivered for introduction into interstate commerce on or after the date that is 180 days after the date of enactment of this Act.

SEC. 5. ALLOWING COVERAGE OF HEMP-DERIVED PRODUCTS AS A SPECIAL SUPPLEMENTAL BENEFIT FOR THE CHRONICALLY ILL UNDER MEDICARE ADVANTAGE.

Section 1852(a)(3)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–22(a)(3)(D)(ii)) is amended by adding at the end the following new subclause:

“(III) INCLUSION OF CERTAIN HEMP-DERIVED PRODUCTS.—For plan year [*date to be supplied*] and subsequent plan years, an MA plan may include as a supplemental benefit under this subparagraph a dietary supplement that is a hemp-derived consumer product (as defined in section 201(tt) of the Federal Food, Drug, and Cosmetic Act).”.

SEC. 6. USER FEES AND REQUIREMENTS REGARDING SALE OF HEMP-DERIVED CONSUMER PRODUCTS.

(a) USER FEES ON QUALIFIED RETAILERS OF HEMP-DERIVED CONSUMER PRODUCTS.—

(1) ESTABLISHMENT OF QUARTERLY FEE.—Beginning on [*date to be supplied*], the Secretary of the Treasury, acting through the Administrator of the Tax and Trade

Bureau (referred to in this section as the “Administrator”), shall in accordance with this subsection assess user fees on, and collect such fees from, each qualified retailer of hemp-derived consumer products sold in interstate commerce. The fees shall be assessed and collected with respect to each quarter of each fiscal year in the amount specified in paragraph (2).

(2) ASSESSMENT OF USER FEE.—The total user fees assessed and collected under paragraph (1) each fiscal year with respect to each qualified retailer of hemp-derived consumer products sold in interstate commerce shall be an amount equal to 5 percent of gross revenues attributable to the sale of such products during such fiscal year.

(3) CREDITING AND AVAILABILITY OF FEES.—All user fees collected under paragraph (1) shall be deposited into a special account established in the Treasury of the United States. The funds deposited into such account shall be available for expenditure to the extent authorized and in such amounts as are provided in advance in appropriations Acts, to carry out each of the following activities:

(A) Enforcement of the provisions of this Act.

(B) Administration and oversight of hemp commerce regulatory programs.

(C) Consumer protection activities related to hemp-derived products.

Any funds so made available which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were made available shall be deposited into the general fund of the Treasury.

(4) ANNUAL REPORTS.—Not later than *[to be supplied]* after the end of each fiscal year, the Administrator shall submit to Congress a report on the total user fees assessed and collected

under paragraph (1), and the expenditures made pursuant to paragraph (3), during such fiscal year.

(b) REGISTRATION OF RETAILERS OF HEMP-DERIVED CONSUMER PRODUCTS.—

(1) ESTABLISHMENT OF REGISTRATION SYSTEM.— Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish and implement a registration system for all persons engaged in business as a retailer of hemp-derived consumer products in interstate commerce.

(2) REGISTRATION REQUIRED.—A person shall not engage in business as a retailer of hemp-derived consumer products in interstate commerce unless such person is registered under the registration system established under paragraph (1) not later than 180 days after the date on which such system is so established.

(3) REGULATORY AUTHORITY.—The Administrator shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this subsection.

(c) PERMITS WITH RESPECT TO HEMP-DERIVED BEVERAGES.—

(1) ESTABLISHMENT OF PERMIT SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall establish and implement a permit system for all persons engaged in business as a manufacturer, distributor, or wholesaler of hemp-derived beverages.

(2) PERMITS REQUIRED.—A person shall not engage in business as a manufacturer, distributor, or wholesaler of hemp-derived beverages unless such person is issued a permit under the permit system established under paragraph (1).

(3) ADDITIONAL REQUIREMENTS.—Each person issued a permit under the permit system established under paragraph (1) shall, as a condition of such permit, comply with the following requirements (as applicable):

(A) In the case such person is a manufacturer of hemp-derived beverages, such person may only sell or transfer hemp-derived beverages to a distributor or wholesaler who has been issued a permit under such permit system.

(B) In the case such person is a distributor or wholesaler of hemp-derived beverages, such person may only sell or transfer hemp-derived beverages to qualified retailers. Notwithstanding the preceding sentence, such person may also sell hemp-derived beverages directly to a consumer, provided that such sale is not made through a retail storefront, brick-and-mortar establishment, or any other physical location open to the public for walk-in purchases.

(C) Such person may not hold a direct interest in the business of any retailer of hemp-derived beverages.

(D) Such person may not allow any retailer of hemp-derived beverages to hold a direct interest in the business of such person.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed as prohibiting a person from holding both a permit as a manufacturer of hemp-derived beverages and a permit as a distributor or wholesaler of hemp-derived beverages under the permit system established under paragraph (1).

(5) REGULATORY AUTHORITY.—The Administrator shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this subsection.

(d) MINIMUM AGE OF SALE OF HEMP-DERIVED BEVERAGES.—

(1) IN GENERAL.—A person may not sell a hemp-derived beverage to an individual unless such individual has attained years of age and shall verify the age of such individual in-person at the point of sale of such hemp-derived beverage.

(2) PENALTIES.—

(A) CIVIL MONEY PENALTY.—Any person who violates paragraph (1) shall be subject to a civil money penalty of not more than \$10,000 per violation. Each sale made in violation of paragraph (1) shall constitute a separate violation.

(B) SUSPENSION OR REVOCATION OF REGISTRATION OR PERMIT.—If the Administrator finds that a person has committed repeated or willful violations of paragraph (1), the Administrator may suspend or revoke the registration of such person under subsection (b), or the permit issued to such person under subsection (c), if applicable.

(e) DEFINITIONS.—In this section:

(1) HEMP-DERIVED CONSUMER PRODUCT.—The term “hemp-derived consumer product” has the meaning given such term in subsection (tt)(1) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), as added by this Act.

(2) HEMP-DERIVED BEVERAGE.—The term “hemp-derived beverage” means a hemp-derived consumer product which is a beverage.

(3) QUALIFIED RETAILER.—The term “qualified retailer” means a person who is registered under the registration system established under subsection (b)(1).

SEC. 7. ZERO TOLERANCE FOR IMPAIRED DRIVING.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“§ 180. Zero tolerance for impaired driving

“(a) IN GENERAL.—For fiscal year 2027 and each fiscal year thereafter, the Secretary shall withhold 10 percent of the amount required to be apportioned to any State under paragraphs (1) and (2)

of section 104(b) if such State does not have in effect a law that meets the requirements of subsection (b).

“(b) REQUIREMENTS.—The requirements of this subsection are as follows:

“(1) For purposes of enforcing laws relating to impaired driving, impairment due to hemp shall be assessed using the same field sobriety evaluation standards and protocols that law enforcement officers apply to determine impairment caused by lawfully prescribed pharmaceutical substances, including opioids, benzodiazepines, and other controlled medications.

“(2) Any person determined to be operating a motor vehicle while impaired by hemp shall be subject to the same penalties, fines, license suspensions, and other sanctions as apply to driving under the influence of alcohol or other impairing substances under the laws of the State in which the violation occurs.

“(c) STATE ENFORCEMENT.—Nothing in this section shall be construed to limit the authority of any State to enforce its own laws relating to impaired driving, provided such laws apply penalties for hemp impairment that are no less stringent than those applied to alcohol-related impairment.

“(d) RULE OF CONSTRUCTION.—This section shall not be construed to require the development of a per se blood or bodily fluid concentration threshold for hemp-derived cannabinoids as a precondition for enforcement of impaired driving laws.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“180. Zero tolerance for impaired driving.”.

SEC. 8. PROTECTION OF STATE REGULATORY AUTHORITY AND INTERSTATE COMMERCE.

(a) PRESERVATION OF STATE RIGHTS.—Nothing in this Act, or the amendments made by this Act, shall be construed to preempt or limit the authority of a State, territory, or Indian Tribe to enact or enforce laws and regulations governing the production, manufacture, distribution, or sale of hemp or hemp-derived products within the borders of such State, territory, or Indian Tribe that are more stringent than the standards in this Act and the amendments made by this Act.

(b) NON-INTERFERENCE WITH INTERSTATE COMMERCE.—Pursuant to clause 3 of section 8 of Article I, United States Constitution, no State, territory, or Indian Tribe may enact or enforce any law that prevents the passage and delivery of a hemp-derived consumer product through the borders of such State, territory, or Indian Tribe if such product complies with this Act and the amendments made by this Act.

SEC. 9. SEVERABILITY.

If any provision of this Act or the amendments made by this Act, or the application of any such provision to any person or circumstance, is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this Act and the amendments made by this Act, and the application of the provisions of this Act and the amendments made by this Act to any other person or circumstance, shall not be affected thereby.
