

# Hemp Restrictions in FY2026 Agriculture Appropriations

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The House and Senate Committees on Appropriations have approved [FY2026 Agriculture appropriations bills](#) (H.R. 4121 and S. 2256) that would similarly redefine the statutory definition of *hemp* to restrict the commercial production, sale, and distribution of certain hemp-derived cannabinoid products. House appropriators have expressed that the provision would close “[the hemp loophole that has resulted in the proliferation of unregulated intoxicating hemp products](#).” During [Senate committee markup](#), Senator Mitch McConnell expressed that the existing hemp definition has resulted in “an unintended consequence that has allowed for intoxicating hemp-derived synthetic products to be made and sold,” calling for changes to reflect “[the original intent of the 2018 farm bill](#)” by closing the loophole. The Senate provision would delay implementation for one year; the House provision does not include this delay. [Similar action was debated](#) but not enacted in the 118<sup>th</sup> Congress.

The House and Senate provisions would amend the hemp definition to clarify the types of products considered lawful under the [Domestic Hemp Production Program](#) (7 U.S.C. §§1639o-s) administered by the U.S. Department of Agriculture (USDA). The current statutory definition was established in the Agriculture Improvement Act of 2018 (P.L. 115-334), which legalized hemp cultivation by excluding it from the definition of *marijuana* (21 U.S.C. §802(16)), thus removing federal regulation of hemp from the Controlled Substances Act (21 U.S.C. §§801 et seq.) and from U.S. Drug Enforcement Administration (DEA) oversight. Congress also preserved the laws and regulations of the Food and Drug Administration (FDA) and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§301 et seq.) regarding hemp-derived products (7 U.S.C. §1639r(c)), leading FDA to assert that consumer products containing cannabis and cannabis-derived cannabinoids under its jurisdiction are “[unlawful](#).” Both [hemp](#) and [marijuana](#) are from the *Cannabis sativa* plant.

In statute, hemp is currently defined to mean “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 [THC] concentration of not more than 0.3 percent on a dry weight basis” (7 U.S.C. §1639o). There are [hundreds of chemical compounds and cannabinoids](#) in the cannabis plant.

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H.R. 4121 (§759) and S. 2256 (§781, [as amended](#)) would expand the existing statutory definition of hemp to include industrial hemp products and exclude certain hemp-derived cannabinoid products. These terms would be defined as follows:

- *Industrial hemp* would be defined as hemp grown for “non-cannabinoid” uses, including for fiber or for grain/seed (e.g., use as a whole grain, oil, cake, nut, or hull) or for immature plants (e.g., “microgreens or other edible leaf products”), as well as hemp grown for research purposes or as a viable seed to produce industrial hemp.
- *Hemp-derived cannabinoid product* would be defined as “any intermediate or final product derived from hemp (other than industrial hemp), that ... contains cannabinoids in any form; and ... is intended for human or animal use through any means of application or administration, such as inhalation, ingestion, or topical application.”

The provisions would exclude from the hemp definition any cannabinoids that are non-naturally occurring and [synthesized or manufactured compounds](#). The provisions also would exclude from the definition “any viable seeds from a *Cannabis sativa* L. plant” that exceed a total THC (including tetrahydrocannabinolic acid [THCA]) of 0.3% in the plant on a dry weight basis. Other changes would provide that the allowable limits of THC—the leading psychoactive cannabinoid in the cannabis plant—be determined on the basis of its total THC, including THCA, instead of delta-9 THC. This would codify the regulatory practice established in USDA’s [2021 final hemp regulations](#). Other existing statutory language regarding hemp “derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not” would remain unchanged.

The provisions would exclude “any hemp-derived cannabinoid products containing ... quantifiable amounts” of THC as determined by the Secretary of Health and Human Services in consultation with the USDA Secretary. The House committee report would require that FDA establish a task force to “provide input on determining the level of quantifiable amounts of [THC] or other cannabinoids in hemp-derived cannabinoid products” and recommend “clear, science-based guidance to ensure product safety, consumer confidence, and regulatory clarity” for hemp-derived products (H.Rept. 119-172). In determining quantifiable amounts, the [House committee states](#) it “does not intend for industrial or non-intoxicating hemp-derived cannabinoid products with trace or insignificant amounts of THC to be affected.” While neither the House nor Senate describes what constitutes an intoxicating hemp-derived cannabinoid product, these proposed changes would effectively redefine hemp to include any industrial hemp product but include only hemp cannabinoid products that are naturally occurring, non-synthetic, and nonintoxicating. The Senate committee report would require FDA to report on projected market impacts and stakeholder engagement, including information on uniform packaging, labeling, testing, and adverse event reporting requirements (S.Rept. 119-37).

Efforts to close the hemp loophole reflect recommendations of the [Cannabis Regulators Association \(CANNRA\)](#) and [attorneys general](#) in several states. CANNRA has identified [three loopholes](#)—0.3% loophole, THCA loophole, and derivatives loophole—that it asserts are being used to justify the sale of unregulated hemp-derived cannabinoid products despite some products being widely considered to be intoxicating and to pose public safety and health risks. The House and Senate provisions would address the first two loopholes by codifying USDA requirements that hemp be tested on the basis of total THC (including THCA). The third would be addressed by the exclusion of certain hemp-derived cannabinoid products—intoxicating hemp-derived cannabinoid products would be considered controlled substances, subject to DEA enforcement. Industry groups contend such policy changes would “[dismantle](#)” the U.S. hemp industry.

The 118<sup>th</sup> Congress [considered similar changes](#) to the hemp definition. The House Agriculture Committee added a [nearly identical provision](#) to its farm bill proposal (H.R. 8467, §10006, [as amended](#) and ordered to be reported); House appropriators added a related provision to [FY2025 Agriculture appropriations](#)

(H.R. 9027, §760). While appropriations acts usually **do not amend** the *U.S. Code*, they may do so depending on the use of House rules.

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