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February 9, 2002

D.E.A. Extends Its Deadline for Banning Hemp in Food

By GREG WINTER

Hoping to give an appeals court time to rule, the Drug Enforcement Administration said yesterday that it would extend a grace period for companies to dispose of food products made from hemp, a plant containing small amounts of the same psychoactive substance found in marijuana.

In early October, shortly after Asa Hutchinson became D.E.A. administrator, the agency issued a rule that effectively banned "any product that contains any amount" of the active substance in marijuana, known as tetrahydrocannabinol, or THC.

Hemp, a close relative of the marijuana plant, does not contain enough of the substance to have a mind-altering effect or to show up on most drug tests. Nevertheless, the rule still applied to the dozens of pretzels, snack bars and other food products that are made with hemp seed oil, and stores and manufacturers were given until early this month to dispose of them all.

In explaining the rule, the D.E.A. said it was merely interpreting existing drug laws, not expanding them to cover previously acceptable products.

But the nascent hemp food industry cried foul, asserting that the agency has the authority to control only substances with a "high potential for abuse." The industry filed an appeal last year with the United States Court of Appeals for the Ninth Circuit, which handles appeals of administrative rulings like this one.

The court has yet to rule, but the D.E.A. agreed this week to suspend its prohibition for another 40 days to give the panel of judges more time and information to decide.

Though the hemp foods industry in the United States is small, with sales of no more than \$7 million a year, the drug agency's stance has elicited a surprisingly forceful response.

Representatives Ron Paul, Republican of Texas, and George Miller, Democrat of California, sent letters to fellow lawmakers last week, criticizing the D.E.A. for erecting "unwarranted barriers" to a legitimate business and imploring Mr. Hutchinson to follow "a more reasonable approach."

Last month, a Canadian importer filed a complaint with the State Department over the rule, asserting that the United States had violated the North American Free Trade Agreement by banning a product without consulting its trade partners.

Notwithstanding the delay, the D.E.A. said it had no intention of softening its prohibition on food made with hemp.

"We take our responsibility seriously," a D.E.A. spokeswoman, Rogene Waite, said.

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