

ISSUE: California is missing out on the booming U.S. CBD market

On July 6th the California Department of Public Health (CDPH) issued an FAQ stating that “the use of industrial hemp as the source of CBD to be added to food products is prohibited.” The hemp industry disagreed strongly with the CDPH assessment and sent a letter outlining its position and urging CDPH to reconsider. California farmers, manufacturers and brands are being held back on this economic opportunity and we need this issue resolved. Our state is the leader in tech, solar and farming. Why not HEMP?

OVERVIEW

Hemp is used in thousands of products including clothing, food, body care, composites, building materials and healthy dietary supplements. The hemp industry has grown dramatically over the past 15 years and U.S. sales of hemp products are now approaching \$1 billion. Most hemp products are imported but that is changing due to new Farm Bill provisions that allow American farmers and researchers to work with the crop. California has prime agricultural land where hemp is known to grow well and there is an opportunity to create a new industry that will generate farming and manufacturing jobs. In order to do that, state regulatory agencies must recognize the opportunity so that California farmers, manufacturers and brands are not at a disadvantage to those in other states like Oregon and Colorado.

BACKGROUND: Hemp Legalized in California

California legalized hemp cultivation in 2013 with the passage of SB 566, the California Industrial Hemp Farming Act. The bill revised the definition of “marijuana” so that the term excluded industrial hemp, as defined, except where the plant is cultivated or processed for purposes not expressly allowed. The bill contained a number of restrictions on how hemp could be grown and processed due to the fact that commercial hemp cultivation was not yet legal under federal law.

Hemp Research & Pilot Program Included in 2014 Farm Bill

Later that year, Congress passed the Farm Bill and included Sec. 7606, a provision defining hemp and allowing universities and state departments of agriculture to conduct pilot programs and research. Advocates approached the California Dept. of Food and Agriculture (CDFA) to request that they initiate rulemaking as authorized under SB 566. The CDFA requested an opinion from Attorney General Kamala Harris and she advised it was her legal opinion that only universities could grow hemp in California under Sec. 7606 of the Farm Bill. At least one university hemp project was attempted but never reached fruition due to red tape with the DEA.

Proposition 64 Expands Hemp Definition & Allows Commercial Hemp Farming

In the mean time, hemp advocates worked with the drafters of Proposition 64 (Prop 64) to include language that would clarify that hemp cultivation was legal under state law and that farmers could grow hemp for fiber, seed and flower. There was a new and fast growing

market developing for hemp derived extracts that contained cannabidiol (CBD) and the original language in SB 566 was too restrictive to allow hemp to be grown for CBD.

SB 1409 Clean-up Legislation and CDFA Industrial Hemp Regulations

When Prop 64 passed, state licensed hemp farming was legalized but there was a need for clean up legislation to harmonize the language in SB 566 with the new language in Prop 64. Vote Hemp and other advocates began working with Senator Wilk to introduce SB 1409 to clarify the state law. That bill is nearing final passage in the coming weeks.

In early 2017 the CDFA formed an Industrial Hemp Advisory Board and held its first meeting in June to begin the process of creating regulations for hemp farming in California. That process is now well underway and final regulations are expected later this year.

Hemp Industry Growth Across the U.S. & Opportunities for California Farmers

The hemp industry has grown dramatically over the past 15 years. According to the Hemp Business Journal, sales of hemp products in the U.S. eclipsed \$800 million in 2017 and sales of CBD products grew to \$190 million (see Vote Hemp U.S. hemp market press release).

There were 19 states that had hemp pilot programs in 2017 and more than 1,450 licenses were issued for 25,713 acres of hemp crops. A survey of state departments of agriculture indicates that there are more than 75,000 acres of hemp licensed in 2018.

SOLUTION: On July 6th the California Department of Public Health (CDPH) issued an FAQ stating that “the use of industrial hemp as the source of CBD to be added to food products is prohibited.” The hemp industry disagreed strongly with the CDPH assessment and sent a letter outlining its position and urging CDPH to reconsider. Have CDPH work with industry to create reasonable regulations similar to those in Colorado.

SUPPORTING DOCUMENTS:

- CDPH - FAQ – Industrial Hemp and Cannabidiol (CBD) in Food Products California
- Vote Hemp coalition letter to CDPH in response
- World Health Organization (WHO) Expert Committee on Drug Dependence (ECDD) recommendation letter to the US regarding CBD
- ECDD critical review report on cannabidiol
- 9th Circuit Amicus filing from members of Congress regarding intent
- 9th Circuit ruling in HIA v. DEA regarding marijuana extracts - establishes that Farm Bill grown hemp is not marijuana
- Colorado Dept. of Public Health policy regarding hemp in foods
- 2017 Hemp Market press release showing the size and growth of the market for hemp products
- 2017 Crop Report showing states that are competing in the hemp market