



April 10, 2024

The Honorable Debbie Stabenow
Chairwoman
Senate Agriculture Committee

The Honorable John Boozman
Ranking Member
Senate Agriculture Committee

The Honorable Glenn "GT" Thompson
Chairman
House Agriculture Committee

The Honorable David Scott
Ranking Member
House Agriculture Committee

Dear Chairwoman Stabenow, Ranking Member Boozman, Chairman Thompson, and Ranking Member Scott:

I write to you in my capacity as Executive Director of the US Cannabis Council, a national trade association devoted to building the future of legal access to safe and appropriately tested cannabis. Our members and I recognize the critical work each of you has done to usher a bipartisan Farm Bill through the legislative process and, hopefully, see it signed into law this year.

Specifically, we see the Farm Bill as a key opportunity to tackle the national crisis caused by unregulated intoxicating hemp products. This letter outlines our concerns and provides a policy solution to close the statutory loophole which has allowed unregulated intoxicating hemp products to proliferate across the United States.

Absent federal product safety oversight, hemp legalization has created a national consumer market of untested and unregulated intoxicating products. This has resulted in the widespread availability of unsafe consumer products, often produced using unregulated industrial-scale chemical processes that fail to meet the fundamental product safety standards that Americans have come to expect in consumer packaged goods. Indeed, the ability to purchase these products online, in gas stations, and in convenience stores, without any age-gating or labeling requirements, provides consumers with a false and misleading perception that these products are safe and lawful.



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The rampant public consumption of these products makes it obvious that the time for federal regulation, standardization, and control of these manufacturing processes is now. Like other consumer products, hemp-based intoxicating products should be regulated with safety and effect on individuals in mind. Acceptable notions of consumer protection require that intoxicating hemp products with significant levels of untested and unregulated forms of THC be regulated differently than non-intoxicants. Much like grape juice is regulated differently than wine, intoxicating cannabis products should be regulated like alcohol, while hemp ingredients that have safety profiles consistent with food and dietary supplements should be regulated as such. Both product types necessitate - and public health and safety require - a federal regulatory regime.

Regulatory frameworks that lack the level of product safety regulation required for intoxicating and chemically synthesized products do not promote the public health and welfare. The current regulatory vacuum opens the door to bad actors and allows for unregulated intoxicating products to be sold across the nation with no age restrictions. The country's intoxicating hemp market has created jurisdictional confusion and confounded efforts to address the illicit market. It also poses a substantial health risk due to lack of regulation over the chemicals used in manufacturing products, potentially similar to what the country saw in the 2019 vaping illness (EVALI) outbreak or during the Prohibition-era "bathtub gin" crisis.

Recommendation to Realign and Address Unintended Consequences:

Policy challenges related to hemp are complex, and several steps are required to fully address them. However, the most important and time-sensitive of those steps is within your control and well within the authority of the Farm Bill: Close the loophole created by the current definition of hemp established by the 2018 Farm Bill and create a regulatory pathway for non-intoxicating products.

We propose inserting a new section, below the current definition of hemp, to read as follows:

ADDITIONAL DEFINITION: Products in final form intended for human or animal consumption which are:

- a. Made or derived from hemp or hemp bi-products; and*
- b. Contain detectable quantities of total THC and any other intoxicant that can be derived from hemp including other forms of THC; and*
- c. Are intended to be consumed or absorbed inside the body by any means, including inhalation, ingestion, insertion, or topical application, shall be excluded from the current definition of Hemp and considered marijuana as defined by 21 U.S.C 802(16)*



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This proposal protects the allowances granted to farmers, allowing legitimate agricultural and industrial hemp producers the flexibility they need to navigate the changing plant characteristics when growing in the field, while taking away the loopholes that have created the current gray market environment for unregulated hemp derived intoxicants. The recommendation makes clear that products containing intoxicants which are derived from the *Cannabis sativa L.* plant cannot be defined as “hemp.” Finally, we believe that this solution opens the door to allow the FDA to step in and regulate non-intoxicating hemp consumer products under their existing authority, and provide the potential for a regulatory pathway by removing cannabis equivalent consumer products from unregulated markets.

The USCC members look forward to a productive dialogue and partnership to help advance a bipartisan Farm Bill that supports a much-needed policy solution for hemp-based products.

Best regards,

Edward Conklin

Edward Conklin

Executive Director

US Cannabis Council

The US Cannabis Council’s (USCC) mission is to build a federally legal and equitable cannabis industry that promotes restorative justice and public health and welfare. Our membership includes a broad and diverse group of cannabis and hemp businesses and organizations that seek to advance the industry out of failed prohibition and into regulation in a manner that benefits consumers, fosters economic opportunity, and protects public health and safety. USCC members represent all aspects of the largely state-regulated cannabis and hemp industry, and accordingly have been subject to regulations under these state systems for close to a decade.