



## Hemp and Cannabis: A Future Legal Crop?

### BACKGROUND

Four states and the District of Columbia have legalized the use of recreational cannabis. Several other states permit legal medicinal use of cannabis. Additionally, there have been several attempts in Congress to address the issue.

### ISSUE

The 2014 Farm Bill made two significant changes to U.S. industrial hemp policy. First, it allowed certain research institutions and state departments of agriculture to grow or cultivate industrial hemp for research as part of an agricultural pilot program or other agricultural or academic research, if allowed under state law. Second, the bill established a definition of industrial hemp as “the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol.”

The FY2015 appropriation (P.L. 113-235) blocked federal law enforcement authorities from interfering with state agencies and hemp growers for agricultural research. The provision states that “none of the funds made available” to the U.S. Department of Justice and the Drug Enforcement Agency “may be used in contravention” of the 2014 Farm Bill. This provision was added in response to the Drug Enforcement Agency attempting to block seeds imported by some states to grow industrial hemp and to avoid similar actions in the future. In addition, a medical marijuana amendment was included in the bill, marking the first time Congress has rolled back marijuana prohibition in any significant way.

The 2015 transportation bill included a section on “Marijuana Impaired Driving.” The language instructed the Secretary of Transportation, in consultation with the heads of other federal agencies as appropriate, to conduct a study on marijuana-impaired driving.

A report due to Congress in late 2016 should include an assessment of methodologies and technologies for measuring driver impairment resulting from the use of marijuana, including the use of marijuana in combination with alcohol. The report will also address descriptions and assessments of the role of marijuana as a causal factor in traffic crashes, the extent of the problem of marijuana-impaired driving, current state laws relating to marijuana-impaired driving, and a determination on whether an impairment standard for drivers under the influence of marijuana is feasible and could reduce vehicle accidents and save lives.

The Secretary is expected to make recommendations on effective and efficient methods for training law enforcement personnel to use technology to detect or measure the level of impairment of a motor vehicle operator who is under the influence of marijuana.

Other federal legislation not signed into law includes the following:

- The Treat Marijuana Like Alcohol Act would have directed the Attorney General to issue a final order that removes marijuana in any form from all schedules of controlled substances under the Controlled Substances Act (CSA). It would have allowed states to legalize marijuana like alcohol without federal interference. It failed by only nine votes.

- The CARERS Act, introduced in March 2015, was considered historically significant. Most key marijuana-related votes had taken place on the House side. The legislation would amend the Controlled Substances Act to provide that control and enforcement provisions relating to marijuana would not apply to people acting within state law. CARERS attempted to address banking issues and directed the Department of Veterans Affairs (VA) to authorize VA health care providers to provide veterans with recommendations and opinions regarding participation in state marijuana programs.
- The House voted five times in 2014 to let states set their own marijuana policies (once on medical marijuana, twice on hemp, and twice on marijuana and banking). In 2015, the House voted four times to let states set their own marijuana policies (twice on medical marijuana and twice on hemp). The Senate did not act on the bills.
- In 2015, the Senate Appropriations Committee passed the banking amendment, which would have allowed marijuana businesses to bank at FDIC-insured banks. It removed the ban in the District of Columbia and approved three other marijuana amendments allowing VA doctors to recommend marijuana to their patients, prohibiting the Drug Enforcement Agency (DEA) from undermining state medical marijuana laws, and prohibiting the DEA from undermining state hemp research laws. The bill was not debated by the full Senate.

Alaska, Colorado, Oregon, Washington and the District of Columbia have legalized recreational use of marijuana.

The following 24 states have approved medical marijuana use: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

Three states – California, Massachusetts and Nevada approved legalizing recreational use via ballot initiatives in 2016. Four states – Arkansas, Florida, Montana and North Dakota – have medical marijuana on the November ballot. Montana’s ballot initiative modifies that state’s existing medical marijuana law.

Legal recreational use of marijuana is regulated very differently in the five jurisdictions where it is currently legal. In 2013, Deputy Attorney General Thomas Cole issued a memorandum that updated Department of Justice guidance issued in 2009 and 2011 on federal marijuana enforcement under the CSA. Enforcement under the Obama Administration focused efforts and placed priority on these guidelines, which include:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

### OPTION #1

As more states legalize marijuana, support a federal definition of hemp and cannabis as an agricultural crop.

### OPTION #2

Support crop insurance coverage for the production of hemp and cannabis.

### OPTION #3

Support research on plant pests and diseases on hemp and cannabis.