119TH CONGRESS
2D SESSION

S. _____

To amend the Agricultural Marketing Act of 1946 to modify the definition of the term ''hemp'', and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SHEEHY (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Agricultural Marketing Act of 1946 to modify the definition of the term ''hemp'', and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hemp Guardrails Act''.

SEC. 2. HEMP.

(a) DEFINITION OF HEMP.—

(1) IN GENERAL.—Section 297A(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o(1)) (as amended by section 781 of the Agriculture,

Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (7 U.S.C. 1639o note; Public Law 119–37)), is amended—

(A) in subparagraph (A), by striking ''0.3'' and inserting ''1.0'';

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking ''0.3'' and inserting ''1.0''; and

(II) by striking ''or'' after the semicolon;

(ii) in clause (ii)—

(I) by striking subclauses (II) and (III); and

(II) by striking ''containing—'' and all that follows through ''cannabinoids'' in subclause (I) and inserting ''containing cannabinoids''; and

(iii) in clause (iv)—

(I) in subclause (I), by adding ''or'' after the semicolon at the end; and

(II) by striking subclauses (II) and (III) and inserting the following:

"(II) more than trace amounts of restricted cannabinoids."; and

(C) by adding at the end the following:

"(D) RESTRICTED CANNABINOIDS.—For purposes of subparagraph (C)(iv), the term 'restricted cannabinoids'—

"(i) means cannabinoids, other than delta-9 tetrahydrocannabinol, that produce intoxication or impairment in humans through agonism of the cannabinoid CB1 receptor, including delta-8 tetrahydrocannabinol, delta-10 tetrahydrocannabinol, hexahydrocannabinol (HHC), and tetrahydrocannabinol acetate (THC-O-acetate), together with their isomers, analogs, esters, ethers, and salts; and

"(ii) does not include cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabidivarin (CBDV), tetrahydrocannabivarin (THCV), or delta-9 tetrahydrocannabinol.

''(E) UNFINISHED HEMP-CANNABINOID INGREDIENTS.—Notwithstanding any other provision of this paragraph, an unfinished hemp-cannabinoid ingredient (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall be considered hemp under this subtitle.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) STATE AND TRIBAL PLANS.—Section 297B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639p) is amended—

(i) in subsection (a)(2)(A)(ii), by striking ''delta-9 tetrahydrocannabinol concentration'' and inserting ''total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid)''; and

(ii) in subsection (e)(2)(A)(iii), by striking ''delta-9 tetrahydrocannabinol concentration of more than 0.3 percent'' and inserting ''total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid) of more than 1.0 percent''.

(B) DEPARTMENT OF AGRICULTURE PLAN.—Section 297C(a)(2)(B) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639q(a)(2)(B)) is amended by striking ''delta-9 tetrahydrocannabinol concentration'' and inserting ''total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid)''.

(b) AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(A) in paragraph (s), in the matter preceding subparagraph (1), by striking ''food (including any substance'' and inserting ''food (including industrial hemp intended for human or animal use and hemp seed, hemp seed oil, or hempseed protein not containing cannabinoids, any substance'';

(B) in paragraph (rr), by adding at the end the following:

''(6) The term 'tobacco product' does not include a hemp-derived cannabinoid product.''; and

(C) by adding at the end the following:

''(tt) The term 'hemp-derived cannabinoid product'—

''(1) except as otherwise provided in subparagraph (2), has the meaning given the term in section 297A of the Agricultural Marketing Act of 1946;

''(2) may include an intermediate hemp-derived cannabinoid product (as defined in section 297A of the Agricultural Marketing Act of 1946) only in such cases as the Secretary determines appropriate;

''(3) includes a hemp-derived cannabinoid dietary supplement;

''(4) may include ingestibles, beverages, oral tinctures and sublinguals, capsules and tablets, inhalables (other than raw floral hemp material, smokable hemp flower, or pre-roll material that is intended for inhalation), and topicals and transdermals; and

''(5) does not include—

''(A) a drug that is subject to the requirements of chapter V or section 351 of the Public Health Service Act;

''(B) a device that is subject to the requirements of chapter V; or

''(C) an unfinished hemp-cannabinoid ingredient.

''(uu) The term 'hemp-derived cannabinoid dietary supplement'—

''(1) means a dietary supplement that—

''(A) contains one or more ingredients that are derived from hemp;

''(B) contains one or more cannabinoids; and

''(C) is for ingestion in tablet, capsule, softgel, gelcap, powder, gummy, chew, lozenge, tincture, oil, spray, strip, or liquid form;

''(2) is not marketed for its impairing effects; and

''(3) does not include—

''(A) any product for inhalation, application to the skin, or transdermal absorption;

''(B) any product containing raw floral hemp material, an unfinished hemp-cannabinoid ingredient, or work-in-process materials;

''(C) any product containing industrial hemp;

''(D) any product containing hemp seed, hemp seed oil, or hempseed protein not containing cannabinoids; or

''(E) any product containing any cannabinoid not found in, or capable of being produced in, the hemp plant.

''(vv) The term 'hemp' has the meaning given such term in section 297A of the Agricultural Marketing Act of 1946.

''(ww) The term 'unfinished hemp-cannabinoid ingredient' means an oil, extract, concentrate, distillate, or other intermediate substance that—

''(1) meets the criteria specified in subparagraphs (A) through (D) of section 297A(1) of the Agricultural Marketing Act of 1946 to be considered hemp, except that such substance may contain a concentration of total tetrayhdrocannabinol that exceeds 1 percent during processing, on the conditions that such substance—

''(A) remains exclusively with actors or entities lawfully permitted to manufacture hemp-derived cannabinoid products under this Act; and

''(B) is not offered for retail sale;

''(2) is not for consumer use;

''(3) is not marketed, sold, distributed, or shipped to any actors or entities other than actors or entities lawfully permitted to manufacture hemp-derived cannabinoid products under this Act;

''(4) is not a finished hemp product; and

''(5) is produced solely for incorporation into a finished cannabinoid product through further processing.''.

(2) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) by inserting ''hemp-derived cannabinoid product,'' after ''tobacco product,'' each place it appears in paragraphs (a), (b), (c), (g), (h), and (k);

(B) in paragraph (p)—

(i) by striking ''510 or 905'' and inserting ''510, 905, or 1103''; and

(ii) by striking ''or 905(j)'' and inserting ''905(j), or 1103''; and

(C) by adding at the end the following:

''(jjj)(1) The introduction or delivery for introduction into interstate commerce of any food to which has been added a hemp-derived cannabinoid product, unless the finished product complies with the requirements for food under chapter IV and for hemp-derived cannabinoid products under chapter XI.

''(2) The introduction or delivery for introduction into interstate commerce of a hemp-derived cannabinoid product that is not derived exclusively from hemp cul-

tivated in the United States, processed within the United States, and finished, packaged, and labeled within the United States.

''(3) The sale of a hemp-derived cannabinoid product to any person younger than 21 years of age.

''(4) The possession or consumption of a hemp-derived cannabinoid product by any person younger than 21 years of age.

''(5) The sale of a hemp-derived cannabinoid product that does not comply with the child-resistant packaging requirements established by regulations promulgated under section 1103.

''(6) The introduction or delivery for introduction into interstate commerce of a hemp-derived cannabinoid product intended for human consumption that contains, or purports to contain, raw floral hemp material, smokable flower, or pre-roll material that is intended for inhalation.''.

(3) REGULATION OF HEMP-DERIVED CANNABINOID PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended by adding at the end the following:

"CHAPTER XI—HEMP-DERIVED CANNABINOID PRODUCTS

"SEC. 1101. MISBRANDING.

"A hemp-derived cannabinoid product shall be deemed to be misbranded if—

"(1) its advertising or promotion is false or misleading in any particular;

"(2) its labeling does not bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users, or conform to such other requirements in all respects as may be prescribed by the Secretary;

"(3) it is in package form for use by humans, and it contains product packaging features imitating images popularly used to advertise to children or otherwise market to anyone under 21 years of age, as determined by the Secretary; or

"(4) it fails to comply with any applicable requirement established under section 1103(1).

"SEC. 1102. ADULTERATION.

"A hemp-derived cannabinoid product shall be deemed to be adulterated if it fails to comply with any applicable requirement established under paragraph (2) or (3) of section 1103.

"SEC. 1103. HEMP-DERIVED CANNABINOID PRODUCT STANDARDS.

''Not later than 180 days after the date of enactment of this chapter, the Secretary shall establish, by regulation—

''(1) packaging and labeling requirements for hemp-derived cannabinoid products, which shall include—

''(A) child-resistant packaging requirements, which may vary based on the form, characteristics, and intended use of the hemp-derived cannabinoid product; and

''(B) requirements that final hemp-derived cannabinoid products bear a label containing a quick response (QR) code, any other scannable mechanism, or internet address that leads to a web page with testing results for the cannabinoid hemp product in the form of a certificate of analysis;

''(2) uniform manufacturing and testing requirements for hemp-derived cannabinoid products to ensure safety of such products, which shall include—

''(A) manufacturing and testing requirements for key components, potential contaminants, and cannabinoid content;

"(B) requirements for third-party laboratory testing of finished products; and

"(C) good manufacturing practice requirements for facilities producing hemp-derived cannabinoid products;

"(3) requirements for the identification, evaluation, and control of added substances in hemp-derived cannabinoid products;

"(4) requirements for the recall and removal from commerce of hemp-derived cannabinoid products that are adulterated, misbranded, or otherwise fail to comply with applicable safety requirements that may be prescribed by the Secretary; and

"(5) registration and recordkeeping requirements for facilities engaged in manufacturing, processing, packing, or holding of hemp-derived cannabinoid products intended for distribution in the United States.

"SEC. 1104. DIETARY SUPPLEMENTS CONTAINING CANNABINOIDS.

"(a) IN GENERAL.—A dietary supplement that is a hemp-derived cannabinoid product shall comply with all applicable requirements for dietary supplements and food under chapter IV and all applicable requirements for hemp-derived cannabinoid products under this chapter.

''(b) EFFECT.—A dietary supplement that is also a hemp-derived cannabinoid product shall not be—

''(1) deemed adulterated under section 402(f) solely on account of constituents made or derived from cannabinoids; or

''(2) excluded from the definition of dietary supplement under section 201(ff)(3) solely on account of constituents made or derived from cannabis.''.

(4) SEIZURE.—Section 304(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by striking the period at the end and adding the following: ''Any adulterated or misbranded hemp-derived cannabinoid product.''.

(5) FOOD ADDITIVES.—Section 409(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(a)) is amended by adding at the end of the matter following paragraph (3) the following: ''A food bearing or containing a hemp-derived cannabinoid product that meets the requirements of chapter XI shall not, by reason of bearing or containing such a hemp-derived cannabinoid product, be considered adulterated under subparagraph (1) or (2)(C)(i) of section 402(a).''.

(6) INSPECTION.—Section 704(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)(1)) is amended, in the first sentence, in subparagraph (A), by inserting ''hemp-derived cannabinoid products,'' after ''tobacco products,'' each place it appears.

(7) PUBLICITY.—Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375(b)) is amended by inserting ''hemp-derived cannabinoid products,'' after ''tobacco products,''.

(8) PRESUMPTION.—Section 709 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379a) is amended by inserting ''hemp-derived cannabinoid product,'' after ''tobacco product,''.

(9) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, limit, supersede, or terminate the authority of the Secretary—

(A) to administer the Substance Access Beneficiary Engagement Incentive or any successor program under the Centers for Medicare & Medicaid Services involving hemp-derived cannabinoid dietary supplements (as defined in section 201(uu) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(uu))); or

(B) permit coverage of a hemp-derived cannabinoid dietary supplement (as so defined) as a supplemental benefit under section 1852(a)(3)(D) of the Social Security Act (42 U.S.C. 1395w–22(a)(3)(D)).

(c) PROTECTION OF STATE REGULATORY AUTHORITY AND INTERSTATE COMMERCE.—

(1) PRESERVATION OF STATE RIGHTS.—Except as provided in paragraph (2), nothing in this section or the amendments made by this section shall be construed to preempt or limit the authority of a State, territory, or Indian Tribe to enact or enforce laws and regulations governing the production, manufacture, distribution, importation, or sale of hemp or hemp-derived cannabinoid products within the borders, or exportation out of the borders, of such State, territory, or Indian Tribe that are more stringent than, or at least as protective as, the standards in this section and the amendments made by this section.

(2) NON-INTERFERENCE WITH INTERSTATE COMMERCE.—Pursuant to clause 3 of section 8 of Article I, United States Constitution, no State, territory, or Indian Tribe may enact or enforce any law that prevents the passage and delivery of a hemp-de-

rived cannabinoid product through the borders of such State, territory, or Indian Tribe if such product complies with this section and the amendments made by this section.

(3) DEFINITIONS.—In this subsection, the terms ''hemp'' and ''hemp-derived cannabinoid product'' have the meanings given the terms in section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o), as amended by subsection (a).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 11, 2026.