

Practice Update

Hemp Bill Heads to President Trump for Approval - Finally

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Following the U.S. Senate's lead, the U.S. House of Representatives approved The Agriculture Improvement Act of 2018 on December 12, 2018, with 369 yeas and 47 nays. The Act, better known as the 2018 Farm Bill, was spearheaded by Senate Majority Leader Mitch McConnell (R-Kentucky) and after much deliberation and debate, is finally headed to the President's desk, following which President Trump will have 10 days to veto or sign the bill into law.

If signed into law, the \$867 billion bill will fund many agricultural programs, from federal water access to crop insurance. Of great significance is that the bill has incorporated the Hemp Farming Act of 2018, the most monumental change to the Controlled Substances Act (CSA) since its initial passage in 1971. Specifically, the bill will legalize, at the federal level, the production of industrial hemp. Several key provisions include:

- The removal of hemp from the CSA;
- Formally changing the definition of industrial hemp to *Cannabis sativa* L. plants containing less than .03% THC (the chemical component in the plant that produces a high or euphoric effect) and explicitly removing hemp from the definition of "marihuana" in the CSA;

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- Provisions for the cultivation, processing, and selling, as well as interstate commerce of hemp products, including hemp-derived CBD in U.S. territories and on Indian tribal lands; and
- Specific prohibitions preventing states without industrial hemp programs from interfering with the distribution of industrial hemp.

In 2014, Congress started paving the way for the legalization of hemp by authorizing universities and state Departments of Agriculture to institute pilot programs for the growing and cultivating of industrial hemp for agricultural and academic research purposes; yet hemp remained a Schedule I Controlled Substance under the CSA, whereas cocaine was merely Schedule II.

The hemp-related provisions of the 807-page bill, which also includes language on conservation, farm subsidies, food stamps, and rural development, were primarily bipartisan. However, tensions mounted over differences in opinion about persons with felony drug convictions participating or working in the hemp industry. In the end, a compromise was reached allowing participation after 10 years.

President Trump has indicated he will sign the legislation. If he does, hemp legalization will become effective January 1, 2019, and oversight will move from the U.S. Department of Justice to the U.S. Department of Agriculture.

Disclaimer:

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws

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