

Distinguishing Hemp from Cannabis Legally

Since the passage of the 2018 Farm Bill, hemp has been making a quiet comeback as an agricultural crop. Rediscovered for its versatility of uses, hemp is instrumental in the emergence of CBD oils. But people are still confused about the exact differences between hemp and cannabis.

In short, hemp is also a cannabis plant, but the one that doesn't get anyone high. Mature female hemp plants are a Sativa subspecies that contain less than 0.3% THC. Hemp can also be differentiated from marijuana by its appearance and environmental adaptability.

Used over the centuries for paper, clothing, rope and food, the American colonialists were encouraged to grow hemp plants. In 1914, the U.S. \$10 bill was printed on hemp and showed a hemp harvest on the back side.

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Clark Wu, Attorney
Rose Law Group

Hemp became a casualty of the Marijuana Tax Act of 1937, which restricted exports and made it economically unviable to sell. Last year's Farm Bill, however, separated hemp from cannabis so that it can be legally grown, transported and sold in all 50 states.

But not every state wants to go along. South Dakota Governor Kristi Noem recently vowed to veto any bill legalizing hemp until law enforcement can reliably distinguish it from cannabis. "There is no question in my mind that normalizing hemp, like legalizing medical marijuana, is part of a larger strategy to undermine enforcement of drug laws," she wrote when vetoing a similar bill earlier this year.

It makes the 2018 arrest of truck drivers transporting hemp across Idaho that much more concerning. Stopped while driving on the interstate from Colorado to Oregon, the drivers explained they were hauling legal industrial hemp. But Idaho law says that any plant containing THC, no matter how little, is illegal.

"That is in direct contradiction of what it states in the Farm Bill," said Clark Wu, a cannabis attorney at Arizona's Rose Law Group. Wu says the Farm Bill can mandate



that every state eventually create a "hemp program." South Dakota and Idaho do not yet have such programs. "I am curious to see how they are going to try to structure that in a way that lines up with their current position," said Wu.

Wu called the Idaho case, which goes to trial in October, a metaphor for the larger issue of interstate hemp commerce: "If you're in the industry, and you are worried about transporting to other states, this is a serious issue."



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