



AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify provisions relating to State and Tribal regulation of hemp production.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. _____

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2023, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

1 In section 7415, strike subsection (b) and insert the
2 following:

3 (b) REPEAL.—Effective on the date that is 1 year
4 after the date on which the Secretary establishes a plan
5 under section 297C of the Agricultural Marketing Act of
6 1946, section 7606 of the Agricultural Act of 2014 (7
7 U.S.C. 5940) is repealed.

8 Strike section 10111 and insert the following:

1 **SEC. 10111. HEMP PRODUCTION.**

2 The Agricultural Marketing Act of 1946 (7 U.S.C.
3 1621 et seq.) is amended by adding at the end the fol-
4 lowing:

5 **“Subtitle G—Hemp Production**

6 **“SEC. 297A. DEFINITIONS.**

7 “In this subtitle:

8 “(1) HEMP.—The term ‘hemp’ means the plant
9 Cannabis sativa L. and any part of that plant, in-
10 cluding the seeds thereof and all derivatives, ex-
11 tracts, cannabinoids, isomers, acids, salts, and salts
12 of isomers, whether growing or not, with a delta-9
13 tetrahydrocannabinol concentration of not more than
14 0.3 percent on a dry weight basis.

15 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
16 has the meaning given the term in section 4 of the
17 Indian Self-Determination and Education Assistance
18 Act (25 U.S.C. 5304).

19 “(3) SECRETARY.—The term ‘Secretary’ means
20 the Secretary of Agriculture.

21 “(4) STATE.—The term ‘State’ means—

22 “(A) a State;

23 “(B) the District of Columbia;

24 “(C) the Commonwealth of Puerto Rico;

25 and

1 “(i) a practice to maintain relevant in-
2 formation regarding land on which hemp is
3 produced in the State or territory of the
4 Indian tribe, including a legal description
5 of the land, for a period of not less than
6 3 calendar years;

7 “(ii) a procedure for testing, using
8 post-decarboxylation or other similarly reli-
9 able methods, delta-9 tetrahydrocannabinol
10 concentration levels of hemp produced in
11 the State or territory of the Indian tribe;

12 “(iii) a procedure for the effective dis-
13 posal of products that are produced in vio-
14 lation of this subtitle;

15 “(iv) a procedure to comply with the
16 enforcement procedures under subsection
17 (d);

18 “(v) a procedure for conducting an-
19 nual inspections of a random sample of
20 hemp producers—

21 “(I) to verify that hemp is not
22 produced in violation of this subtitle;

23 and

1 “(II) in a manner that ensures
2 that a hemp producer is subject to not
3 more than 1 inspection each year; and
4 “(vi) a certification that the State or
5 Indian tribe has the resources and per-
6 sonnel to carry out the practices and pro-
7 cedures described in clauses (i) through
8 (v); and

9 “(B) may include any other practice or
10 procedure established by a State or Indian
11 tribe, as applicable, to the extent that the prac-
12 tice or procedure is consistent with this subtitle.

13 “(3) RELATION TO STATE AND TRIBAL LAW.—

14 “(A) NO PREEMPTION.—Nothing in this
15 subsection preempts or limits any law of a
16 State or Indian tribe regulating the production
17 of hemp, to the extent that law is consistent
18 with this subtitle.

19 “(B) REFERENCES IN PLANS.—A State or
20 Tribal plan referred to in paragraph (1) may
21 include a reference to a law of the State or In-
22 dian tribe regulating the production of hemp, to
23 the extent that law is consistent with this sub-
24 title.

25 “(b) APPROVAL.—

1 “(1) IN GENERAL.—Not later than 60 days
2 after receipt of a State or Tribal plan under sub-
3 section (a), the Secretary shall—

4 “(A) approve the State or Tribal plan if
5 the State or Tribal plan complies with sub-
6 section (a); or

7 “(B) disapprove the State or Tribal plan
8 only if the State or Tribal plan does not comply
9 with subsection (a).

10 “(2) AMENDED PLANS.—If the Secretary dis-
11 approves a State or Tribal plan under paragraph
12 (1)(B), the State, through the State department of
13 agriculture (in consultation with the Governor and
14 chief law enforcement officer of the State) or the
15 Tribal government, as applicable, may submit to the
16 Secretary an amended State or Tribal plan that
17 complies with subsection (a).

18 “(3) CONSULTATION.—The Secretary may con-
19 sult with the Attorney General in carrying out this
20 subsection.

21 “(c) TECHNICAL ASSISTANCE.—The Secretary may
22 provide technical assistance to a State or Indian tribe in
23 the development of a State or Tribal plan under subsection
24 (a).

25 “(d) VIOLATIONS.—

1 “(1) IN GENERAL.—A violation of a State or
2 Tribal plan approved under subsection (b) shall be
3 subject to enforcement solely in accordance with this
4 subsection.

5 “(2) NEGLIGENT VIOLATIONS.—

6 “(A) IN GENERAL.—A hemp producer in a
7 State or the territory of an Indian tribe for
8 which a State or Tribal plan is approved under
9 subsection (b) shall be subject to subparagraph
10 (B) of this paragraph if the State department
11 of agriculture or Tribal government, as applica-
12 ble, determines that the hemp producer has
13 negligently violated the State or Tribal plan, in-
14 cluding by negligently—

15 “(i) failing to provide a legal descrip-
16 tion of land on which the producer pro-
17 duces hemp;

18 “(ii) failing to obtain a license or
19 other required authorization from the
20 State department of agriculture or Tribal
21 government, as applicable; or

22 “(iii) producing *Cannabis sativa* L.
23 with a delta-9 tetrahydrocannabinol con-
24 centration of more than 0.3 percent on a
25 dry weight basis.

1 “(B) CORRECTIVE ACTION PLAN.—A hemp
2 producer described in subparagraph (A) shall
3 comply with a plan established by the State de-
4 partment of agriculture or Tribal government,
5 as applicable, to correct the negligent violation,
6 including—

7 “(i) a reasonable date by which the
8 hemp producer shall correct the negligent
9 violation; and

10 “(ii) a requirement that the hemp
11 producer shall periodically report to the
12 State department of agriculture or Tribal
13 government, as applicable, on the compli-
14 ance of the hemp producer with the State
15 or Tribal plan for a period of not less than
16 the next 2 calendar years.

17 “(C) RESULT OF NEGLIGENT VIOLA-
18 TION.—Except as provided in subparagraph
19 (D), a hemp producer that negligently violates
20 a State or Tribal plan under subparagraph (A)
21 shall not as a result of that violation be subject
22 to any criminal or civil enforcement action by
23 the Federal Government or any State govern-
24 ment, Tribal government, or local government

1 other than the enforcement action authorized
2 under subparagraph (B).

3 “(D) REPEAT VIOLATIONS.—A hemp pro-
4 ducer that negligently violates a State or Tribal
5 plan under subparagraph (A) 3 times in a 5-
6 year period shall be ineligible to produce hemp
7 for a period of 5 years beginning on the date
8 of the third violation.

9 “(3) OTHER VIOLATIONS.—

10 “(A) IN GENERAL.—If the State depart-
11 ment of agriculture or Tribal government in a
12 State or the territory of an Indian tribe for
13 which a State or Tribal plan is approved under
14 subsection (b), as applicable, determines that a
15 hemp producer in the State or territory has vio-
16 lated the State or Tribal plan with a culpable
17 mental state greater than negligence—

18 “(i) the State department of agri-
19 culture or Tribal government, as applica-
20 ble, shall immediately report the hemp pro-
21 ducer to—

22 “(I) the Attorney General; and

23 “(II) in the case of a State de-
24 partment of agriculture, the chief law
25 enforcement officer of the State; and

1 “(ii) paragraph (1) of this subsection
2 shall not apply to the violation.

3 “(B) FELONY.—Any person convicted of a
4 felony relating to a controlled substance under
5 State or Federal law shall be ineligible—

6 “(i) to participate in the program es-
7 tablished under this section; and

8 “(ii) to produce hemp under any regu-
9 lations or guidelines issued under section
10 297D(a).

11 “(C) FALSE STATEMENT.—Any person
12 who materially falsifies any information con-
13 tained in an application to participate in the
14 program established under this section shall be
15 ineligible to participate in that program.

16 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as are nec-
18 essary to carry out this section.

19 “(f) EFFECT.—Nothing in this section prohibits the
20 production of hemp in a State or the territory of an Indian
21 tribe for which a State or Tribal plan is not approved
22 under this section in accordance with section 297C or
23 other Federal laws (including regulations).

24 “**SEC. 297C. DEPARTMENT OF AGRICULTURE.**

25 “(a) DEPARTMENT OF AGRICULTURE PLAN.—

1 “(1) IN GENERAL.—In the case of a State or
2 Indian tribe for which a State or Tribal plan is not
3 approved under section 297B, the production of
4 hemp in that State or the territory of that Indian
5 tribe shall be subject to a plan established by the
6 Secretary to monitor and regulate that production in
7 accordance with paragraph (2).

8 “(2) CONTENT.—A plan established by the Sec-
9 retary under paragraph (1) shall include—

10 “(A) a practice to maintain relevant infor-
11 mation regarding land on which hemp is pro-
12 duced in the State or territory of the Indian
13 tribe, including a legal description of the land,
14 for a period of not less than 3 calendar years;

15 “(B) a procedure for testing, using post-
16 decarboxylation or other similarly reliable meth-
17 ods, delta-9 tetrahydrocannabinol concentration
18 levels of hemp produced in the State or terri-
19 tory of the Indian tribe;

20 “(C) a procedure for the effective disposal
21 of products that are produced in violation of
22 this subtitle;

23 “(D) a procedure to comply with the en-
24 forcement procedures under subsection (c)(2);

1 “(E) a procedure for conducting annual in-
2 spections of a random sample of hemp pro-
3 ducers—

4 “(i) to verify that hemp is not pro-
5 duced in violation of this subtitle; and

6 “(ii) in a manner that ensures that a
7 hemp producer is subject to not more than
8 1 inspection each year; and

9 “(F) such other practices or procedures as
10 the Secretary considers to be appropriate, to
11 the extent that the practice or procedure is con-
12 sistent with this subtitle.

13 “(b) LICENSING.—The Secretary shall establish a
14 procedure to issue licenses to hemp producers in accord-
15 ance with a plan established under subsection (a).

16 “(c) VIOLATIONS.—

17 “(1) IN GENERAL.—In the case of a State or
18 Indian tribe for which a State or Tribal plan is not
19 approved under section 297B, it shall be unlawful to
20 produce hemp in that State or the territory of that
21 Indian tribe without a license issued by the Sec-
22 retary under subsection (b).

23 “(2) NEGLIGENT AND OTHER VIOLATIONS.—A
24 violation of a plan established under subsection (a)
25 shall be subject to enforcement in accordance with

1 paragraphs (2) and (3) of section 297B(d), except
2 that the Secretary shall carry out that enforcement
3 instead of a State department of agriculture or Trib-
4 al government.

5 “(3) REPORTING TO ATTORNEY GENERAL.—In
6 the case of a State or Indian tribe covered by para-
7 graph (1), the Secretary shall report the production
8 of hemp without a license issued by the Secretary
9 under subsection (b) to the Attorney General.

10 **“SEC. 297D. AUTHORITY TO ISSUE REGULATIONS AND**
11 **GUIDELINES; EFFECT ON OTHER LAW.**

12 “(a) AUTHORITY.—

13 “(1) IN GENERAL.—The Secretary shall have
14 sole authority to issue Federal regulations and
15 guidelines that relate to the production of hemp, in-
16 cluding Federal regulations and guidelines that re-
17 late to the implementation of sections 297B and
18 279C.

19 “(2) CONSULTATION WITH ATTORNEY GEN-
20 ERAL.—The Secretary may consult with the Attor-
21 ney General before issuing regulations and guide-
22 lines under paragraph (1).

23 “(b) EFFECT ON OTHER LAW.—Nothing in this sub-
24 title shall affect or modify—

1 “(1) the Federal Food, Drug, and Cosmetic Act
2 (21 U.S.C. 301 et seq.); or

3 “(2) the authority of the Commissioner of Food
4 and Drugs and the Secretary of Health and Human
5 Services under that Act.”.