SUBCHAPTER VI—LABELING OF CERTAIN FOOD

§ 1639i. Federal preemption

(a) Definition of food

In this subchapter, the term ''food'' has the meaning given the term in section 321 of title 21.

(b) Federal preemption

No State or a political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling of whether a food (including food served in a restaurant or similar establishment) or seed is genetically engineered (which shall include such other similar terms as determined by the Secretary of Agriculture) or was developed or produced using genetic engineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed or produced using genetic engineering.

(Aug. 14, 1946, ch. 966, title II, § 295, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 838.)

§ 1639j. Exclusion from Federal preemption

Nothing in this subchapter, subchapter V, or any regulation, rule, or requirement promulgated in accordance with this subchapter or subchapter V shall be construed to preempt any remedy created by a State or Federal statutory or common law right.

(Aug. 14, 1946, ch. 966, title II, § 296, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 838.)

SUBCHAPTER VII—HEMP PRODUCTION

§ 1639*o*. Definitions

In this subchapter:

(1) Hemp

The term ''hemp'' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 5304 of title 25.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(4) State

The term ''State'' means—
(A) a State;
(B) the District of Columbia;
(C) the Commonwealth of Puerto Rico; and
(D) any other territory or possession of the United States.

(5) State department of agriculture

The term ''State department of agriculture'' means the agency, commission, or department of a State government responsible for agriculture in the State.

(6) Tribal government

The term ''Tribal government'' means the governing body of an Indian tribe.

(Aug. 14, 1946, ch. 966, title II, § 297A, as added Pub. L. 115–334, title X, § 10113, Dec. 20, 2018, 132 Stat. 4908; amended Pub. L. 119–37, div. B, title VII, § 781(1), (2), Nov. 12, 2025, 139 Stat. 558.)

AMENDMENT OF SECTION

Pub. L. 119–37, div. B, title VII, § 781(1), (2), Nov. 12, 2025, 139 Stat. 558, provided that, effective 365 days after the enactment of Pub. L. 119–37 (approved Nov. 12, 2025), this section is amended by redesignating paragraphs (2) through (6) as (4) through (8), respectively, and by striking paragraph (1) and inserting the following:

(1) Hemp

(A) In general

The term ''hemp'' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid) of not more than 0.3 percent on a dry weight basis.

(B) Inclusion

Such term includes industrial hemp.

(C) Exclusions

Such term does not include—
(i) any viable seeds from a Cannabis sativa L. plant that exceeds a total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid) of 0.3 percent in the plant on a dry weight basis; or
(ii) any intermediate hemp-derived cannabinoid products containing—
(I) cannabinoids that are not capable of being naturally produced by a Cannabis sativa L. plant;
(II) cannabinoids that—
(aa) are capable of being naturally produced by a Cannabis sativa L. plant; and
(bb) were synthesized or manufactured outside the plant; or
(III) more than 0.3 percent combined total of—
(aa) total tetrahydrocannabinols (including tetrahydrocannabinolic acid); and
(bb) any other cannabinoids that have similar effects (or are marketed to have similar effects) on humans or animals as a tetrahydrocannabinol (as determined by the Secretary of Health and Human Services); or
(iii) any intermediate hemp-derived cannabinoid products which are marketed or sold as a final product or directly to an end consumer for personal or household use; or
(iv) any final hemp-derived cannabinoid products containing—
(I) cannabinoids that are not capable of being naturally produced by a Cannabis sativa L. plant;
(II) cannabinoids that—

(aa) are capable of being naturally produced by a Cannabis sativa L. plant; and

(bb) were synthesized or manufactured outside the plant; or

(III) greater than 0.4 milligrams combined total per container of—

(aa) total tetrahydrocannabinols (including tetrahydrocannabinolic acid); and

(bb) any other cannabinoids that have similar effects (or are marketed to have similar effects) on humans or animals as a tetrahydrocannabinol (as determined by the Secretary of Health and Human Services).

(2) Industrial hemp

The term ''industrial hemp'' means hemp—

(A) grown for the use of the stalk of the plant, fiber produced from such a stalk, or any other non-cannabinoid derivative, mixture, preparation, or manufacture of such a stalk;

(B) grown for the use of the whole grain, oil, cake, nut, hull, or any other non-cannabinoid compound, derivative, mixture, preparation, or manufacture of the seeds of such plant;

(C) grown for purposes of producing microgreens or other edible hemp leaf products intended for human consumption that are derived from an immature hemp plant that is grown from seeds that do not exceed the threshold for total tetrahydrocannabinols concentration specified in paragraph (1)(C)(i);

(D) that is a plant that does not enter the stream of commerce and is intended to support hemp research at an institution of higher education (as defined in section 1001 of title 20) or an independent research institute; or

(E) grown for the use of a viable seed of the plant produced solely for the production or manufacture of any material described in subparagraphs (A) through (D).

(3) Hemp-derived cannabinoid product

(A) In general.—The term ''hemp-derived cannabinoid product'' means any intermediate or final product derived from hemp (other than industrial hemp), that—

(i) contains cannabinoids in any form; and

(ii) is intended for human or animal use through any means of application or administration, such as inhalation, ingestion, or topical application.

(B) The term ''intermediate hemp-derived cannabinoid product'' means a hemp-derived cannabinoid product which—

(i) is not yet in the final form or preparation marketed or intended to be used or consumed by a human or animal; or

(ii) is a powder, liquid, tablet, oil, or other product form which is intended or marketed to be mixed, dissolved, formulated, or otherwise added to or prepared with or into any other substance prior to administration or consumption.

(C) The term ''container'' means the innermost wrapping, packaging, or vessel in direct contact with a final hemp-derived cannabinoid product in which the final hemp-derived cannabinoid product is enclosed for retail sale to consumers, such as a jar, bottle, bag, box, packet, can, carton, or cartridge.

(D) The term container excludes bulk shipping containers or outer wrappings that are not essential for the final retail delivery or sale to an end consumer for personal or household use.

(E) Exclusion.—Such term does not include a drug that is the subject of an application approved under subsection (c) or (j) of section 355 of title 21.

See 2025 Amendment notes below.

Editorial Notes

AMENDMENTS

2025—Pub. L. 119–37 added pars. (1) to (3), redesignated former pars. (2) to (6) as (4) to (8), respectively, and struck out former par. (1) which defined ''hemp''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–37, div. B, title VII, §781, Nov. 12, 2025, 139 Stat. 558, provided in part that the amendment made by section 781(1) and (2) is effective 365 days after the enactment of Pub. L. 119–37, which was approved Nov. 12, 2025.

PUBLICATION OF LISTS OF INFORMATION CONCERNING CANNABINOIDS

Pub. L. 119–37, div. B, title VII, §781(3), Nov. 12, 2025, 139 Stat. 560, provided that: ''Within 90 days of the enactment of this act [Nov. 12, 2025], the Food and Drug Administration, in consultation with other relevant Federal agencies, shall publish—

''(A) a list of all cannabinoids known to FDA to be capable of being naturally produced by a Cannabis sativa L. plant, as reflected in peer reviewed literature;

''(B) a list of all tetrahydrocannabinol class cannabinoids known to the agency to be naturally occurring in the plant;

''(C) a list of all other know [sic] cannabinoids with similar effects to, or marketed to have similar effects to, tetrahyrocannabinol class cannabinoids; and

''(D) additional information and specificity about the term 'container', as defined in paragraph (3)(C) [probably means par. (3)(C) of 7 U.S.C. 1639*o*, as added by Pub. L. 119–37].''

INTERSTATE COMMERCE

Pub. L. 115–334, title X, §10114, Dec. 20, 2018, 132 Stat. 4914, provided that:

''(a) RULE OF CONSTRUCTION.—Nothing in this title [enacting this subchapter and sections 1627c and 6521a of this title, amending sections 136a, 1622b, 1632a, 1632b, 2204h, 2207b, 2276, 2401, 2402, 2541, 2568, 3003, 5925c, 6502, 6514, 6515, 6518, 6519, 6521–6523, and 7655a of this title and section 714i of Title 15, Commerce and Trade, repealing sections 3005 and 3006 of this title, enacting provisions set out as notes under sections 1627c, 1639*o*, 6503, and 6521a of this title, and amending provisions set out as a note under section 1621 of this title] or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639*o*] (as added by section 10113)) or hemp products.

''(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639*o* et seq.] (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.''

§ 1639p. State and tribal plans

(a) Submission

(1) In general

A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

(2) Contents

A State or Tribal plan referred to in paragraph (1)—

(A) shall only be required to include—

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

(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

(iii) a procedure for the effective disposal of—

(I) plants, whether growing or not, that are produced in violation of this subchapter; and

(II) products derived from those plants;

(iv) a procedure to comply with the enforcement procedures under subsection (e);

(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subchapter;

(vi) a procedure for submitting the information described in section 1639q(d)(2) of this title, as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subchapter.

(3) Relation to State and tribal law

(A) No preemption

Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

(i) regulates the production of hemp; and

(ii) is more stringent than this subchapter.

(B) References in plans

A State or Tribal plan referred to in paragraph (1) may include a reference to a law of the State or Indian tribe regulating the production of hemp, to the extent that law is consistent with this subchapter.

(b) Approval

(1) In general

Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—

(A) approve the State or Tribal plan if the State or Tribal plan complies with subsection (a); or

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

(2) Amended plans

If the Secretary disapproves a State or Tribal plan under paragraph (1)(B), the State, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, may submit to the Secretary an amended State or Tribal plan that complies with subsection (a).

(3) Consultation

The Secretary shall consult with the Attorney General in carrying out this subsection.

(c) Audit of State compliance

(1) In general

The Secretary may conduct an audit of the compliance of a State or Indian tribe with a State or Tribal plan approved under subsection (b).

(2) Noncompliance

If the Secretary determines under an audit conducted under paragraph (1) that a State or Indian tribe is not materially in compliance with a State or Tribal plan—

(A) the Secretary shall collaborate with the State or Indian tribe to develop a corrective action plan in the case of a first instance of noncompliance; and

(B) the Secretary may revoke approval of the State or Tribal plan in the case of a second or subsequent instance of noncompliance.

(d) Technical assistance

The Secretary may provide technical assistance to a State or Indian tribe in the development of a State or Tribal plan under subsection (a).

(e) Violations

(1) In general

A violation of a State or Tribal plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

(2) Negligent violation

(A) In general

A hemp producer in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture or Tribal government, as applicable,