

# Has the Cannabis Revolution Spread to Washington D.C.?

by David Bush, esq.



It is said that revolutions begin in the streets, not in ivory towers. Popular acceptance of cannabis did not start with the federal government, but in spite of it. Twenty-three states, along with the District of Columbia, have legalized medical marijuana, while 13 others have legalized limited cannabis extracts for specific therapeutic use. Four states and the District of Columbia have legalized recreational marijuana. Twenty-two states have enacted laws regarding industrial hemp. Over a dozen of them have authorized or intend to authorize commercial hemp production.

We are in the midst of a revolution where state governments are telling their citizens that they may engage in conduct that is still federally illegal. The feds continue to view cannabis, all forms of cannabis, as Schedule I Controlled Substances, the worst of the worst. For all intents and purposes, America is facing one of the greatest continuing acts of mass civil disobedience for the greater good since Paul Revere tattered on the British and ruined their police action to subdue the colonies. It is taking time for the folks in Washington to catch up with the rest of us.

But what is cannabis, anyway? What does it have to do with marijuana and industrial hemp?

Marijuana and industrial hemp are the same plant. Both are cannabis. The Genus cannabis finds expression in three nominal species, or sub-species, respectively called sativa, indica and ruderalis. What we commonly refer to as “marijuana” and “industrial hemp” are merely variants of these sub-species. Marijuana varieties tend to have higher concentrations of delta-9-tetrahydrocannabinol (THC), the stuff that gets people high. Industrial hemp does not. The most well known chemical constituent of cannabis other than THC is cannabidiol, or CBD. Because CBD is non-psychoactive, it is commonly associated with industrial hemp. But CBD can be extracted

from any variety of cannabis, regardless of THC content.

Most of the current legislative initiatives at the federal level are directed towards legalizing either industrial hemp, or cannabis used for medical purposes. Medical cannabis products are popularly referred to as either “medical marijuana” or “therapeutic hemp,” generally depending upon whether they are used primarily for the benefits of THC or CBD.

Federal law makes no distinction between varieties of cannabis. Under the current version of the Controlled Substances Act, all varieties of the genus cannabis are considered “marihuana,” without regard to THC content. Certain parts of the cannabis plant that lack significant concentrations of THC and are incapable of propagation are excepted. They include sterilized seeds, oil pressed from seeds, seed residue (“cake”) and mature stalks. But because the cannabis plant itself is still considered a controlled substance, its cultivation is still prohibited, even to make legal products. The current annual value of the hemp industry in America exceeds \$500 million and expanding. Almost all of that value derives from raw materials imported from enlightened foreign countries, where hemp cultivation is not only permitted, but encouraged. Congress is facing increasing pressure to allow a home-grown cannabis industry, at least for industrial and medical purposes.

The first crack in the federal legislative armor appeared in 2014, with enactment of section 7606 of the Farm Bill, codified as 7 U.S.C. § 5940, and aptly named “Legitimacy of Industrial Hemp Research.” The Farm Bill authorized state departments of agriculture and institutions of higher education to conduct “agricultural pilot program[s]” and “other agricultural or academic research.” But it permitted research only where the cultivation of hemp was already allowed under state law.



There is a growing movement in Congress to do more. Several proposals have been introduced that will either remove all federal restrictions on industrial hemp, or in the alternative, prevent the federal government from interfering in state-legal industrial hemp activities. Some initiatives extend to marijuana. Four such proposals are discussed below.

### Federal Appropriations

The bluntest instrument that Congress can wield in the struggle to reform cannabis laws is simply to prevent them from being enforced. Three initiatives recently approved in the House of Representatives would deny funding to the Department of Justice and the Drug Enforcement Administration to interfere with state-legal cannabis activities. The initiatives came in the form of amendments to H.R. 2578, an appropriations bill for the Departments of Commerce and Justice for the 2015-2016 fiscal year. The first amendment protects state-legal industrial hemp farming. The second guards industrial hemp research and development carried out under the Farm Bill. The third prohibits federal interference with the possession, distribution or use of CBD in states where it is legal. These measures do nothing to change the legal status of cannabis and, if signed into law, would last only as long as the fiscal year. But they are a step in the right direction.

### Industrial Hemp Farming Act

The Industrial Hemp Farming Act was introduced in both the House (HR 525) and Senate (S 134). It seeks to create an exception under the Controlled Substances Act for industrial hemp, which is defined as cannabis with a THC concentration of not more than 0.3 percent on a dry weight basis. HR 525 has 56 co-sponsors, including 37 Democrats and 19 Republicans. S 134 has six co-sponsors, two Democrats and four Republicans.

### Therapeutic Hemp (Charlotte's Web) Medical Access Act

Like the Industrial Hemp Farming Act, the Charlotte's Web Medical Access Act (HR 1635) and the Therapeutic Hemp Medical Access Act (S 1333) aim to carve industrial hemp out of the Controlled Substances Act. But they coined a new term for industrial hemp by calling it a "cannabidiol-rich plant." Curiously, the term is defined in the same way that industrial hemp is defined in the Industrial Hemp Farming Act, without any reference to CBD concentration. "Cannabidiol" is defined as CBD extracted from a "cannabidiol-rich plant." Any CBD produced from marijuana varieties continues to be considered a Schedule I Controlled Substance. The bill would effectively grant industrial hemp growers a monopoly in the rapidly growing market for CBD products.

### Respect State Marijuana Law Act

The simplest and undeniably the most radical proposal currently before Congress is HR 1940, called the "Respect State Marijuana Laws Act of 2015." The bill would render the Controlled Substances Act inapplicable to "any person acting in compliance with State laws relating to the production, possession, distribution, dispensation, administration, or delivery of marijuana." It would effectively force federal recognition and acceptance of any state law legitimizing recreational marijuana, medical marijuana and industrial and therapeutic hemp. HR 1940 has 11 co-sponsors, six Democrats and five Republicans.

None of the legislative measures described above have been scheduled for hearings in the committees to which they are assigned. Prospects for passage of any them in the 114<sup>th</sup> Congress are low, but the mere fact that they have been introduced with bipartisan support and multiple co-sponsors is cause for optimism and hope. The federal government has not yet caught up with the rest of America in declaring its self-destructive drug wars at an end. Legitimate cannabis industries in this country are still in their infancy. Reform of our oppressive, illogical and anti-business drug laws still has a very long way to go, but change is coming. Stay tuned. 🇺🇸

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