

# Congressional Efforts to Reduce Restrictions on Growing Industrial Hemp

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In early 2014, Congress made changes to U.S. agricultural policies regarding industrial hemp as part of the 2014 farm bill ([P.L. 113-79](#)), allowing for hemp production under certain circumstances. Full implementation of the farm bill provision initially proved problematic because industrial hemp is further subject to federal drug laws that place certain restrictions on production.

**What Is Industrial Hemp?** Industrial hemp is an agricultural commodity that is cultivated for use in the production of a wide range of hemp-based goods (see CRS Report RL32725, [Hemp as an Agricultural Commodity](#)), including foods and beverages, cosmetics and personal care products, and nutritional supplements, as well as fabrics and textiles, yarns and spun fibers, paper, construction and insulation materials, and other manufactured goods. However, botanically, hemp is a variety of *Cannabis sativa* and is of the same plant species as marijuana and therefore subject to federal drug laws.

**How Does U.S. Drug Policy Affect Growing Hemp?** Under current U.S. drug policy all cannabis varieties, including industrial hemp, are considered [Schedule I controlled substances](#) under the Controlled Substances Act ([CSA](#), 21 U.S.C. §§801 et seq.; Title 21 C.F.R. Part 1308.11). Despite these legitimate industrial uses, hemp production and usage are controlled and regulated by the U.S. Drug Enforcement Administration (DEA). Strictly speaking, the CSA does not make growing hemp illegal; rather, it places strict controls on its production and enforces standards governing the security conditions under which the crop must be grown, making it illegal to grow without a DEA permit. In other words, a grower needs to get permission from the DEA to grow hemp or faces the possibility of federal charges or property confiscation, regardless of whether the grower has a state-issued permit. Currently, cannabis varieties may be legitimately grown for research purposes only.

**Is Industrial Hemp Grown in the United States?** There is no large-scale commercial industrial hemp production in the United States, and the U.S. market is largely dependent on imports, both as finished hemp-containing products and as ingredients for use in further processing. To date, [nearly 30 states have passed laws](#) that allow for growing hemp under certain conditions. However, federal DEA permitting requirements and other restrictions still apply and effectively limit commercial cultivation and expansion of the market.

**What Policy Changes Regarding Hemp Were Enacted in the 2014 Farm Bill?** The Agricultural Act of 2014 ([P.L. 113-79](#), §7606) provided that certain research institutions and state departments of agriculture may grow industrial hemp, as part of an "agricultural pilot program" to "study the growth, cultivation, or marketing of industrial hemp," if

allowed under state laws where the institution or state department of agriculture is located. The farm bill also established a statutory definition of "industrial hemp" as "the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." The provision was included as part of the research title of the law.

**How Have States Responded?** Following enactment of the 2014 farm bill, several states responded by making immediate plans to initiate new agricultural pilot programs. The state of Kentucky, for example, announced plans for [several pilot projects](#) through the Kentucky Department of Agriculture. However, in May 2014, the department's shipment of 250 pounds of imported hemp seed from Italy was blocked by U.S. Customs officials at Louisville International Airport. [DEA officials contend](#) the action was warranted since the "importation of cannabis seeds continues to be subject to the Controlled Substances Imports and Export Act (CSIEA)" and the implementing regulations, which restrict persons from importing viable cannabis seed unless the person is registered with DEA and has obtained the necessary Schedule I research permit, among other requirements. To facilitate release of the seeds, the Kentucky Department of Agriculture filed a [lawsuit](#) in U.S. District Court against DEA, the U.S. Department of Justice (DOJ), U.S. Customs and Border Protection, and the U.S. Attorney General. In the lawsuit, the department claimed that its efforts to grow industrial hemp are authorized under both state and federal law, and that the DEA should not seek to impose "additional requirements, restrictions, and prohibitions" on hemp production beyond requirements in the 2014 farm bill, or otherwise interfere with its delivery of hemp seeds. Although Kentucky's seeds were [eventually released and planted](#), these circumstances have resulted in uncertainty for U.S. hemp growers nationwide.

**How Has the U.S. Congress Responded?** During the debate on the FY2015 Commerce-Justice-Science (CJS) appropriations bill, both the House and Senate adopted provisions to block federal law enforcement authorities from interfering with state agencies and hemp growers, as well as to counter efforts to obstruct agricultural research. The enacted FY2015 Consolidated Appropriations Act ([P.L. 113-235](#), §539) contained a provision that "none of the funds made available" to DOJ and DEA "may be used in contravention" of the 2014 farm bill provision. Similar language is contained in the enacted FY2016 Consolidated Appropriations Act ([P.L. 114-113](#), §543). The enacted FY2016 CSJ appropriations does not include a provision that was contained in the House-passed CJS appropriations bill, which would have further blocked DOJ from preventing a state from implementing its own state laws that "authorize the use, distribution, possession, or cultivation of industrial hemp" as defined in the farm bill ([H.R. 2578](#), §557).

In addition, the FY2016 appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies include a provision that was part of the Senate committee-reported bill ([S. 1800](#), §739) stating that "none of the funds made available" by the agricultural appropriation may be used "to prohibit the transportation, processing, sale, or use of industrial hemp that is grown or cultivated" in accordance with the 2014 farm bill provision ([P.L. 114-113](#), §763).