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[DISCUSSION DRAFT]

119TH CONGRESS

2D SESSION

H. R. XXXX

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To preserve lawful hemp commerce while protecting consumers from high-THC synthetic intoxicants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

A BILL

To preserve lawful hemp commerce while protecting consumers from high-THC synthetic intoxicants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lawful Hemp Protection Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Protecting minors and preventing children's access to hemp products is central to the public interest and to the long-term credibility of the hemp industry. Strong age-control measures are necessary to prevent misuse and safeguard public health.

(2) Many Americans, including veterans and seniors, rely on consumer hemp products for wellness. Ensuring that such products are consistently manufactured, accurately labeled, and domestically sourced is essential to maintaining public trust and protecting consumers.

(3) Clear provenance standards and the elimination of deceptive or look-alike products promote responsible industry growth, protect consumers, and reinforce confidence in lawful hemp commerce.

SEC. 3. DEFINITION OF HEMP.

Effective as if included in the enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (division B of Public Law 119-37), section 781 of such Act is amended to read as follows:

"SEC. 781. (a) Immediately upon enactment of this Act, section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (4) through (8), respectively; and

(2) 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 delta-9 tetrahydrocannabinol concentration of not more than 1 percent on a dry-weight basis.

" '(B) FINAL-FORM TESTING.—For purposes of this paragraph, the delta-9 tetrahydrocannabinol concentration hemp shall be measured on the finished consumer product and not on raw, floral hemp material or any work-in-process material, including an unfinished hemp ingredient.

" '(C) INCLUSION.—Such term includes industrial hemp.

" '(D) EXCLUSIONS.—Such term does not include:

" ' (i) any viable seeds from a Cannabis sativa L. plant that exceeds a delta-9 tetrahydrocannabinol concentration of more than 1 percent on dry-weight basis; or

" '(ii) cannabinoids not found in or capable of being produced in the hemp plant, not including cannabinoids identified in Sec. 781(b)(1).

" '(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 a delta-9 tetrahydrocannabinol concentration specified in paragraph (1)(D)(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 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) 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 sub-paragraphs (A) through (D).

" '(3) UNFINISHED HEMP INGREDIENT.—The term "unfinished hemp ingredient" means an oil, extract, concentrate, distillate, or other intermediate substance derived from hemp that is not intended for consumer use, is not a finished hemp product, and is produced solely for incorporation into a finished hemp product through further processing. An unfinished hemp ingredient may contain concentrations of delta-9 tetrahydrocannabinol exceeding 1 percent during processing, provided that the material remains exclusively within the manufacturing chain and is not offered for retail sale.'

(b) Within 90 days of the enactment of this Act, the Food and Drug Administration, in consultation with other relevant Federal agencies, shall publish—

(1) 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; and

(2) a list of all tetrahydrocannabinol-class cannabinoids known to the agency to be naturally occurring in the plant.'

SEC. 4. FDA OVERSIGHT AND MILLIGRAM LIMITATIONS.

(a) DEFINITIONS.—Section 201(ff)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(3)) is amended—

(1) in paragraph (ff)(3)(B) preceding subclause (i), by inserting ", except in the case of cannabinoids derived from hemp (as defined in section 297A of the Agricultural Marketing Act of 1946)" after "include"; and

(2) by adding at the end the following:

"(tt)(1) The term "hemp-derived dietary supplement" means a dietary supplement (as defined in section 201(ff) of the Federal Food, Drug, and Cosmetic Act) that is derived from hemp (as defined in section 297A of the Agricultural Marketing Act of 1946) and contains one or more cannabinoids, intended for ingestion in tablet, capsule, softgel, gelcap, powder, gummy, chew, lozenge, tincture, oil, spray, strip, or liquid form,

including but not limited to ingestible, oral tinctures and sublinguals, and capsules and tablets. Such term does not include any product intended for inhalation, application to the skin, or transdermal absorption; raw, floral hemp material, unfinished hemp ingredients, or work-in-process materials; industrial hemp products (as defined in section 297A); hemp seed, hemp seed oil, or hempseed protein not containing cannabinoids; or products containing any cannabinoid not found in or capable of being produced in the hemp plant, as identified on the list published by the Food and Drug Administration under section 781(b)(1).

"(2) For the purposes of this paragraph, the term "hemp" has the meaning given such term in section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639o), as in effect beginning on the date that is 365 days after the date of enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (division B of Public Law 119-37)."

(b) ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(j) If it is a hemp-derived dietary supplement that —

"(1) its cannabinoid content exceeds a maximum allowable amount established by the Secretary under section 425(2)(C);"

(2) contains a cannabinoid not listed under (b)(1) of section 781 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agency Appropriations Act, 2026 (division B of Public Law 119-37), as amended by this Act;

"(3) it is not derived exclusively from hemp cultivated in the United States, processed within the United States, and finished, packaged, and labeled within the United States; or

"(4) it is in package form and product packaging does not meet the requirements of 16 C.F.R. 1700.15 (a), (b), and (c), or any successor regulations."

(c) MISBRANDING.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(z) If it is a hemp-derived dietary supplement and its labeling does not adhere to the requirements described in section 425(b).

"(aa) If it is a hemp-derived dietary supplement whose name, branding, labeling, or packaging constitutes a violation of section 43(a) of the Trademark Act of 1946 (15 U.S.C. 1125(a)), including packaging or trade dress that imitates or mimics a trademarked or well-known product so as to be likely to cause consumer confusion as to the product's source, affiliation, or endorsement.

"(bb) If it is a hemp-derived dietary supplement in package form whose label or labeling is marketed to anyone under 21 years of age.'

(d) HEMP-DERIVED DIETARY SUPPLEMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 425. HEMP-DERIVED CONSUMABLE PRODUCTS LABELING REQUIREMENTS.—

"A hemp-derived consumable product shall adhere to the following labeling requirements:

"(1) Its principal display panel shall display, in a font size not smaller than 8 points, the statement "Contains _mg THC per serving and _mg THC per package. For users 21+ only.", where the blanks shall be filled in with the applicable quantity of THC in milligrams per serving and per package, respectively.

"(2) (A) Its principal display panel shall bear the following statement: "GOVERNMENT WARNING: (1) According to the Surgeon General, women should not consume hemp products during pregnancy because of potential risk of birth defects. (2) Consumption of hemp-derived dietary supplement may impair your ability to drive a car or operate machinery.""

(B) The statement under subparagraph (A) shall—

(i) appear in a conspicuous and prominent location on the principal display panel;

(ii) be printed in a font size not smaller than 8 points, or not smaller than the smallest type size used elsewhere on the label, whichever is larger;

(iii) appear in a color that contrasts with the background on which it appears; and

(iv) include the words "GOVERNMENT WARNING" in capital letters and bold type.'

(C) Cannabinoid Maximum Allowable Amounts

''(1) ESTABLISHMENT; REVIEW.—Not later than 18 months after the date of enactment of this section, the Secretary shall establish for each cannabinoid present in a hemp-derived consumable product a maximum allowable amount of such cannabinoid per serving of such product. The Secretary shall

review and, as appropriate, revise such maximum allowable amounts not less frequently than—

''(A) once every 5 years; or

''(B) as soon as scientific evidence warrants reconsideration.

''(2) RULEMAKING.—The Secretary shall establish and revise the maximum allowable amounts under paragraph (1) through a notice-and-comment rulemaking process that is informed by—

''(A) peer-reviewed scientific research on the safety and physiological effects of individual cannabinoids;

''(B) consumer usage data and adverse event reports;

''(C) input from qualified medical and scientific experts;

''(D) consultation with State regulatory authorities with experience overseeing hemp or cannabis markets; and

''(E) consideration of product form, intended use, and target consumer population.

(D) APPLICABILITY.—The amendments made by this section shall only apply with respect to products introduced or delivered for introduction into interstate commerce on or after the date that is 180 days after the date of enactment of this Act.

SEC. 5. CMS-COVERED HEMP PRODUCTS DURING FDA REGULATORY TRANSITION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any hemp-derived product that is approved, authorized, or covered under Medicare Special Supplemental Benefits for the Chronically Ill (SSBCI) or Beneficiary Engagement and Incentives (BEI) under a program administered under Title XVIII of the Social Security Act, including any model tests implemented under section 1115A of such Act and applied under Title XVIII, shall be administered, and governed exclusively under the applicable CMS system, process, or program until such date that model tests are completed.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the enforcement authority of the Food and Drug Administration over hemp-derived products that are not described in subsection (a).

SEC. 6. TTB ENFORCEMENT AND USER FEE FOR HEMP-DERIVED CONSUMABLE PRODUCT

(a) DEFINITION.—The term "hemp-derived consumable product" means any finished product intended for human use that is derived from hemp (as defined in section 297A of the Agricultural Marketing Act of 1946) and contains one or more cannabinoids, including but not limited to ingestibles, beverages, oral tinctures and sublinguals, capsules and tablets, inhalables, and topicals and transdermals.

(b) IMPOSITION OF USER FEE.—There is hereby imposed a user fee of 5 percent of the retail sale price on each hemp-derived consumable product sold in interstate commerce.

(c) COLLECTION.—The user fee imposed under subsection (a) shall be collected by retailers at the point of sale and remitted quarterly to the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

(d) USE OF PROCEEDS.—Amounts collected under this section shall be deposited into a dedicated account and shall be used exclusively for—

(1) enforcement of the provisions of this Act;

(2) administration and oversight of hemp commerce regulatory programs;

(3) consumer protection activities related to hemp-derived consumable products; and

(4) support for State agencies cooperating in the enforcement of this Act.

(e) REPORTING.—The Alcohol and Tobacco Tax and Trade Bureau shall submit an annual report to Congress detailing the amounts collected under this section and the expenditures made from the dedicated amount.

(f) TTB RETAILER LICENSING REQUIREMENT.—

(1) MANDATORY REGISTRATION.—Not later than 180 days after the date of enactment of this Act, the Alcohol and Tobacco Tax and Trade Bureau shall establish and implement a mandatory retailer and online retailer registration and licensing system for all persons engaged in the sale of hemp-derived beverages in interstate commerce.

(2) RETAILER COMPLIANCE PERIOD.—All retailers and online retailers shall register with the Alcohol and Tobacco Tax and Trade Bureau within 30 days of the establishment of the registration system in order to be in compliance with this Act.

(3) PROHIBITION ON UNLICENSED SALES.—After the expiration of the compliance period, no person may sell or offer for sale any hemp-derived consumable products in interstate commerce without a valid registration issued by the Alcohol and Tobacco Tax and Trade Bureau pursuant to this subsection.

(g) TWO-TIER DISTRIBUTION SYSTEM FOR HEMP BEVERAGES.—

(1) ESTABLISHMENT OF TWO-TIER DISTRIBUTION.—Not later than 1 year after the date of enactment of this Act, the Alcohol and Tobacco Tax and Trade Bureau

shall establish and implement a two-tier distribution system for all hemp-derived beverages sold in interstate commerce, modeled on the distribution framework applicable to alcoholic beverages under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.).

(2) TIER ONE—MANUFACTURERS AND DISTRIBUTERS.—A hemp beverage manufacturer of packaged hemp-derived beverages may sell or transfer hemp-derived beverages to a licensed distributor or wholesaler who holds a valid permit issued by the Alcohol and Tobacco Tax and Trade Bureau. A manufacturer may also obtain a distributor or wholesaler permit under this subsection, thereby holding both a manufacturer permit and a distributor or wholesaler permit simultaneously, and may sell or transfer hemp-derived beverages directly to licensed retailers in such dual capacity. No person holding only a manufacturer permit may sell hemp-derived beverages directly to consumers. A person holding a distributor or wholesaler permit, whether held alone or in combination with a manufacturer permit, may sell hemp-derived beverages directly to consumers.

(3) TIER TWO—DISTRIBUTORS TO RETAILERS.—A licensed distributor or wholesaler may sell or transfer hemp-derived beverages to a retailer who holds a valid registration issued pursuant to subsection (e) of this section. A distributor or wholesaler may also sell hemp-derived beverages directly to consumers, provided that such sales shall not be conducted through a retail storefront, brick-and-mortar establishment, or any physical location open to the general public for walk-in purchases.

(4) DISTRIBUTOR AND WHOLESALER PERMITS.—The Alcohol and Tobacco Tax and Trade Bureau shall establish a permit system for distributors and wholesalers of hemp-derived beverages. No person may act as a distributor or wholesaler of hemp-derived beverages without a valid permit issued by the Bureau. The Bureau shall prescribe by regulation the application requirements, fees, and conditions for such permits.

(5) TIED-HOUSE RESTRICTIONS.—A person may hold both a manufacturer permit and a distributor or wholesaler permit under this subsection. However, no person holding a manufacturer permit, a distributor or wholesaler permit, or both, may hold a direct interest in the retail sale of hemp-derived beverages, and no retailer may hold a direct interest in the business of a hemp-derived beverage manufacturer or distributor. The separation between the manufacturing and distribution tier and the retail tier shall be strictly maintained.

(6) APPLICABILITY.—This subsection applies exclusively to hemp-derived beverages and shall not apply to hemp-derived dietary supplements regulated under other provisions of this Act.

(h) AGE VERIFICATION REQUIREMENT.—

(1) IN GENERAL.—All sales of hemp-derived consumable products shall require in-person age verification by means of a valid government-issued photo identification presented at the point of sale.

(2) PENALTIES.—Any person who violates this subsection shall be subject to a civil penalty of not more than $1,000 per violation. Each individual sale conducted in violation of this subsection shall constitute a separate violation. The Alcohol and Tobacco Tax and Trade Bureau may also revoke or suspend any permit or registration issued under this section for repeated or willful violations of this subsection.

SEC. 7. ZERO TOLERANCE FOR IMPAIRED DRIVING.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 180. Zero tolerance for impaired driving

"(a) IN GENERAL.—For fiscal year 2027 and each fiscal year thereafter, the Secretary shall withhold 10 percent of the amount required to be apportioned to any State under paragraphs (1) and (2) of section 104(b) if such State does not have in effect a law that meets the requirements of subsection (b).

"(b) REQUIREMENTS.—The requirements of this subsection are as follows:

"(1) For purposes of enforcing laws relating to impaired driving, impairment due to hemp shall be assessed using the same field sobriety evaluation standards and protocols that law-enforcement officers apply to determine impairment caused by fully prescribed pharmaceutical substances, including opioids, benzodiazepines, and other controlled medications.

"(2) Any person determined to be operating a motor vehicle while impaired by hemp shall be subject to the same penalties, fines, license suspensions, and other sanctions as apply to driving under the influence of alcohol or other impairing substances under the laws of the State in which the violation occurs.

" (c) STATE ENFORCEMENT.—Nothing in this section shall be construed to limit the authority of any State to enforce its own laws relating to impaired driving, provided such laws apply penalties for THC impairment that are no less stringent than those applied to alcohol-related impairment.

" (d) RULE OF CONSTRUCTION.—This section shall not be construed to require the development of a per se blood or bodily fluid concentration threshold for hemp-derived cannabinoids as a precondition for enforcement of impaired driving laws.'

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

'180. Zero tolerance for impaired driving.'

SEC. 8. PROTECTION OF STATE REGULATORY AUTHORITY AND INTERSTATE C OMMERCE.

(a) PRESERVATION OF STATE RIGHTS.—Nothing in this Act, or the amendments made by this Act, shall be construed to preempt or limit the authority of a State, territory, or Indian Tribe to enact or enforce laws and regulations governing the production, manufacture, distribution, or sale of hemp, hemp-derived dietary supplements, or hemp-derived beverages within the borders of such State, territory, or Indian Tribe that are more stringent than the standards in this Act and the amendments made by this Act.

(b) NON-INTERFERENCE WITH INTERSTATE COMMERCE.—Pursuant to clause 3 of section 8 of Article I, United States Constitution, no State, territory, or Indian Tribe may enact or enforce any law that prevents the passage and delivery of hemp, hemp-derived dietary supplements, or hemp-derived beverages through the borders of such State, territory, or Indian Tribe if such product complies with this Act and the amendments made by this Act.

SEC. 9. SEVERABILITY.

If any provision of this Act or the amendments made by this Act, or the application of any such provision to any person or circumstance, is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this Act and the amendments made by this Act, and the application of the provisions of this Act and the amendments made by this Act to any other person or circumstance, shall not be affected thereby.