



SENT VIA ELECTRONIC MAIL ONLY

March 20, 2024

The Honorable Glenn "GT" Thompson
Chairman
Committee On Agriculture
United States House of Representatives
1301 Longworth House Office Building
Washington, D.C. 20515

The Honorable David Scott
Ranking Member
Committee On Agriculture
United States House of Representatives
1010 Longworth House Office Building
Washington, D.C. 20515

The Honorable Debbie Stabenow
Chair
Committee on Agriculture, Nutrition, & Forestry
United States Senate
328A Russell Senate Office Building
Washington, D.C. 20510

The Honorable John Boozman
Ranking Member
Committee on Agriculture, Nutrition, & Forestry
United States Senate
328A Russell Senate Office Building
Washington, D.C. 20510

Re: The Five-Year Reauthorization of the Farm Bill

Dear Chairman Thompson, Chair Stabenow, Ranking Members Representative Scott, and Senator Boozman:

We, the attorneys general of Indiana, Arkansas, California, Colorado, Connecticut, District of Columbia, Georgia, Hawaii, Iowa, Kansas, Maryland, Minnesota, Missouri, North Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Commonwealth of Virginia, and Washington write to call your attention to a crisis issue impacting our states, our public safety, and our role as law enforcement officials. As Congress prepares to embark on a new five-year reauthorization of the Farm Bill, we strongly urge your committees to address the glaring vagueness created in the 2018 Farm Bill that has led to the proliferation of intoxicating hemp products¹ across the nation and challenges to the ability for states and localities to respond to the resulting health and safety crisis.²

The Agricultural Improvement Act of 2018 seemed clear at the time in its intentions—re-introducing industrial hemp as an agricultural commodity, while maintaining existing federal

¹ Intoxicating hemp products are produced, derived from hemp-created CBD. They can be available in forms that claim to be non-intoxicating hemp, while still containing tangible quantities of delta-8, delta-9, or other known intoxicating cannabinoids. Others are simply sold as intoxicants. All are products which both the Drug Enforcement Administration and the Food and Drug Administration consider to be illegal, subject to the Federal Analogue Act if not for protections granted by the 2018 Farm Bill.

² Ind. Att'y Gen. Op. 2023-1, <https://www.in.gov/attorneygeneral/files/Official-Opinion-2023-1.pdf>. Indiana Attorney General Todd Rokita details the problems discussed in this letter in his public opinion.

prohibitions on cannabis products and their use. Nevertheless, bad actors have exploited the 2018 Farm Bill's definition of hemp, its protection of derivatives of that plant, and a wrongly perceived federal pre-emption against state-level regulation of these products. Regardless of your Committees' intentions, the reality is that this law has unleashed on our states a flood of products that are nothing less than a more potent form of cannabis, often in candy form that is made attractive to youth and children—with staggering levels of potency, no regulation, no oversight, and a limited capability for our offices to rein them in.

The current law defining hemp has resulted in exploitation. Applied to foods, the 0.3% THC limit which distinguishes industrial hemp from cannabis, is inadequate to distinguish the potential for intoxication. The result that has been seen is excessively potent products that are manufactured under fewer controls than in states that have legalized cannabis. Because of the ambiguity created by the 2018 Farm Bill, a massive gray market worth an estimated \$28 billion has exploded, forcing cannabis-equivalent products into our economies regardless of states' intentions to legalize cannabis use, and dangerously undermining regulations and consumer protections in states where adult-use legal cannabis programs are already in place. Many states now face poisonings from poorly manufactured products, products with misleading labels, and consumption by individuals who are under the age of twenty-one. As hemp-based THC-infused products increase in popularity, particularly edibles, illicit suppliers have begun co-opting legitimate brand names and packaging to sell candy, snacks, and cereal that are intoxicating and confusing to consumers. These copycat hemp products place children at exceptional risk.

This year's anticipated reauthorization of the Farm Bill and the need for this reauthorization to make much-needed improvements to the statute established in 2018 comes at a critical time, as our states are being tested in our efforts to regulate these potentially dangerous products. These intoxicating hemp products, by virtue of their potential hazard to consumers, must be regulated by each state. The definition of hemp should be amended to clarify that there is no federal hemp intoxicants loophole, and the 2023 reauthorization should reaffirm that members of Congress do not intend to limit states in restrictions or regulations related to cannabinoids or any other derivatives of hemp which are deemed intoxicating.

We share your commitment to farmers and support an orderly market for industrial hemp and non-intoxicating hemp-derived products. The promise of the 2018 Farm Bill to create this agricultural commodity market, however, has failed. Instead, hemp-derived intoxicants have proliferated across our states, posing a significant threat to public health and safety, and benefiting unregulated, untaxed, and unaccountable market actors. It is our duty to protect our states and communities, yet the federal law lacks the clarity needed to act vigorously on their behalf. We urge Congress in the strongest possible terms to address this reckless policy.

Sincerely,



Todd Rokita
Attorney General



Tim Griffin
Attorney General of Arkansas



Bob Bonta
Attorney General of California



William Tong
Attorney General of Connecticut



Chris Carr
Attorney General of Georgia



Brenna Bird
Attorney General of Iowa



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Ellen F. Rosenblum
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Attorney General of Tennessee



Jason Miyares
Attorney General of the Commonwealth of Virginia



Bob Ferguson
Attorney General of Washington