



Hemp Transporters are Still Dodging Potholes Despite the Farm Bill

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As the hemp industry grows exponentially, significant questions continue to arise regarding the transportation of hemp across state lines. Hemp transporters, believing themselves to be within the law based on the 2018 Farm Bill, have been challenged by state law enforcement on several occasions, a sign of the confusion surrounding hemp transportation and enforcement, even though the 2018 Farm Bill included provisions allowing for the interstate movement of hemp. The confusion has led to potentially severe consequences.

Many industry insiders are now familiar with the Idaho State Police seizure of roughly 6,700 pounds of hemp from a commercial truck driver who was transporting the hemp from Oregon to Colorado. The incident arose because the laws surrounding hemp transportation are confusing. For hemp transporters, the nation is a legal checkerboard, with few straight lines to cross. On the one hand, the Farm Bill appears to prohibit states from restricting the interstate movement of hemp,

which is understood to be no more than 0.3% THC on a dry weight basis. Because of the Farm Bill's language, the transporter and his employer believed themselves to be legally transporting hemp. Unfortunately, the United States Department of Agriculture has yet to fully implement the Farm Bill's provisions.

Conversely, many states like Idaho continue to enforce laws restricting transportation of the cannabis plant, regardless of THC content. There, the state police tested the hemp for THC and discovered that THC was present. The state police arrested the truck driver pursuant to an Idaho law prohibiting the transportation of marijuana, which the state defines as any plant containing THC. If convicted, the driver faces a penalty of up to 15 years in prison with a mandatory minimum of 5 years. The seizure should be noted by all hemp industry transporters: until the USDA fully implements the Farm Bill's transportation provisions, state law enforcement may continue to seize hemp and apply criminal penalties to the transporters. While some states have laws banning any THC content, other states are a bit more lenient.

To avoid legal issues, anybody transporting hemp across state lines should take two important steps. First, know exactly what is in the hemp being transported. Thoroughly test the product for THC content and ensure that the driver is armed with documentation proving the product's potency is below 0.3%. Second, carefully analyze the route that the transporter will take. For every state the transporter will pass through, analyze the cannabis laws and any recent legislative changes that may impact whether it is legal to transport hemp through that state. It is strongly recommended that any such analysis be done by or in collaboration with an attorney. If the conclusion is not correct, drivers are put at great risk, as the Idaho incident demonstrates. Until the USDA finishes implementing the Farm Bill, the hemp industry will continue to experience friction between the protections provided by the Farm Bill's transportation provisions and state law enforcement. While many states are moving forward with cannabis and hemp-friendly legislation, some are not. Just recently, on April 12, a panel of the Idaho House of Representatives defeated a bill that would have permitted the transportation of hemp through the state.