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This Bud's Not For You

Not if you want to get high, anyway. But if hemp isn't a drug, why is the DEA treating it like heroin?

BY JOHN CLOUD/LEXINGTON

No one is saying Kentucky doesn't offer its share of distinctive intoxicants. Bourbon and tobacco have long been popular drugs here, and even in these abstemious times, a well-known member of the political class will occasionally pour his visitors a glass of moonshine from a Mason jar with plumped cherries bobbing on the bottom.

But the farmers around Lexington are mostly old-fashioned men with a serious problem: the decline in demand for U.S. tobacco. And when they tell you they know of a crop that could help replace tobacco and maybe save their farms, they aren't promoting any stoner foolishness. True, the crop they hope to grow is known to botanists as *Cannabis sativa*, but different races within that species can have widely varying amounts of tetrahydrocannabinol (THC), the merrymaking chemical in pot. Marijuana will typically have anywhere from 3% to 20% THC. Hemp is bred to contain less than 1%. You could roll and smoke every leaf on a 15-ft. hemp plant and gain little more than a hacking cough.

Next month, however, the Drug Enforcement Administration is set to begin enforcing a new rule treating foods that contain "any amount of" THC (even nonpsychoactive amounts) as controlled substances, making them as restricted as heroin. Anyone possessing such foods is supposed to dispose of them now, though hemp sellers and eaters won't be prosecuted until March 18. Nationally marketed products include the Hempzel Pretzels, baked in Pennsylvania, and Organic Hemp Plus Granola, made in Blaine, Wash. Gastronomically speaking, a ban on these earthy-tasting comestibles would be no great tragedy--though the hemp-crazy Galaxy Global Eatery in New York City serves an apple pie with a delightful hemp crust.


Economically speaking, though, a ban could ruin the 20 or so companies that make and sell more than \$5 million worth of hemp waffles, salad oils and other foods a year. Hemp Universe here in Lexington stopped selling food weeks ago, and Whole Foods Market of Austin, Texas, recommended last week that its 129 stores remove hemp products. Other retailers are holding firm, saying hemp foods contain such tiny traces of THC that the chemical wouldn't register in a routine lab test. But that's not the same as having zero THC, and the threat of further DEA action has prompted seven hemp companies to ask the Ninth Circuit Court of Appeals to block the rule. They say the DEA is effectively creating a new law, not interpreting existing statutes. A Canadian hemp firm has filed a claim saying the DEA is violating NAFTA by failing to provide scientific justification for a rule that "will be nothing short of an absolute ban on trade in hemp food." (The Canadian

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government has also formally objected.) The DEA's position is that U.S. drug laws clearly ban THC--any THC. The court's decision will turn on the historically murky question of whether Congress intended hemp to be part of those laws. Some antidrug groups-- including, most stridently, the Family Research Council--believe allowing hemp foods would send a pro-marijuana message.

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Many farmers are watching the case because it shows how hard the government will fight a growing movement to legitimize hemp farming in the U.S. Right now it's legal to sell hemp products but illegal to grow the hemp used in them, which is imported. The global market for raw hemp is expanding. Foods are only a fraction of the hemp-product universe, which includes Mercedes door panels, Body Shop Body Butter, Armani place mats, and countless humbler items such as twine, carpet and diapers. These nonedibles would remain legal under the rule. But if the court doesn't intervene, investors may think twice before supporting a business associated with drugs.

If hemp cultivation were legalized, could it really save U.S. farms? That's unclear, but legislators in more than 20 states have asked for research. They know that a year after Canada allowed hemp cultivation in 1998, its farms were already growing 35,000 acres. The U.S. has taken a different, more tangled approach to the plant, one that reflects the quick assumptions of the war on drugs. The farmland around leafland, a once commanding estate east of Lexington, used to provide a rich bounty to the Graves clan. Jacob Hughes, a Welshman, first planted in this part of Kentucky in the 1770s, but now his great-great-grandson, Jacob Hughes Graves III, 75, grows corn and tobacco only out of tradition. Although he earned his livelihood as a banker, Graves grew up working on the farm, and he always hoped his land might provide at least one of his nine children with an agricultural career.

His son Andrew made a go of it, but by the mid-'90s, it was clear to the son that tobacco was in trouble. Pushing 40, Andrew was wondering what to do with himself when local entrepreneurs suggested hemp. Products have been made from the versatile plant for thousands of years. Early American planters grew it widely; George Washington sowed it on four of his farms. But the cotton gin--and later nylon--all but killed the industry. Beginning in the late 1980s, hemp products enjoyed a renaissance, at first as novelty items for liberals. Greens love hemp because it's a renewable resource and an effective rotation crop that requires little or no herbicide. Nutritionists and vegetarians found that hemp oil has an unusually beneficial ratio of essential fatty acids ("good" fats).

The plan was simple, if naive: Andrew Graves would grow the hemp, then local companies would sell products made from it. Graves wouldn't have to go far to learn the horticulture. As a boy, his father Jacob had helped his father grow hemp on the same land. But there was a small glitch. The Federal Government began requiring permits to grow Cannabis sativa in 1937, when Congress passed the Marihuana Tax Act. Some say Congress meant to exclude hemp from the law, but the regulators who have carried it out have rarely distinguished between psychoactive and nonpsychoactive cannabis varieties. Today winning a DEA permit to grow hemp is just as hard as getting one to grow marijuana.

Jacob thought the regulations were ridiculous, since in all his years on the farm, no one had done something so silly as smoke hemp. What's more, the U.S. government had been his biggest buyer of hemp in the '40s. Cannabis-growing permits were plentiful during World War II because imports of other fibers dried up. In 1942 the USDA even produced a film, Hemp for Victory, to encourage farmers to plant hemp to meet wartime demand for rope.

After the war, when the U.S. became concerned that the Mob and foreign governments were pushing drugs on Americans, hemp became anathema. That did have a certain logic at a time when the chemical line between the two crops was more blurred. THC wasn't identified as marijuana's active agent until 1964; it's likely that some pot and hemp plants back then were closer cousins than they are today. Even now, people caught with marijuana occasionally claim it's only hemp. Cops have complained that they can't tell the difference. And as recently as the mid-'90s, a few hemp-food products could trigger a false-positive result on a drug test.

Advocates say such concerns are out of date. Today hemp can be grown with its seeds closely monitored to keep THC negligible, and a recent scholarly study showed that today's hemp foods don't trigger false positives. What's more, in open fields, low-THC hemp is actually a threat to high-THC marijuana. Since hemp and marijuana are

members of the same species, they will cross-pollinate, degrading the quality of any pot hidden in a hemp field.

The Graveses thought the U.S. could adopt a simple regulatory scheme of controlled seed markets and unannounced field inspections. After all, Britain, Canada and other countries had legalized hemp cultivation without major incident. And the U.S. made regulatory changes to accommodate poppy seeds, which contain opiate traces.

But the Graveses needed political help to do the same for hemp, so Andrew went to an old family friend, Louie Nunn, a former Governor of Kentucky. If you associate hemp only with Woody Harrelson, Nunn is a jarring figure. He's a lifelong Republican. He will be 78 in March, and his major indulgences are University of Kentucky basketball and dirty jokes. But for Nunn, hemp is about economics, not the drug war. He wants locally grown hemp to be used for parts in the 1.2 million cars built in Kentucky every year. Like his allies in other farm-state legislatures who favor hemp, Nunn opposes marijuana legalization.

But even with the ex-Governor on board, the state is scarcely closer to cultivating the plant. It did enact a law last year requiring the state agriculture department to grow and study hemp, but DEA regulations treating hemp as marijuana make such work expensive--high security is required around research plots--and Kentucky's plan isn't funded. "I wouldn't expect us to grow any hemp this year or even next," sighs majority whip Joe Barrows, a Democrat in the Kentucky house who sponsored the bill. Hawaii has a small plot where hemp cultivation is allowed, but research is going slowly.

Since the crack epidemic, drug-law enforcers have been granted huge budget increases (\$19.2 billion this year, up from \$3.1 billion in 1982). When the Ninth Circuit weighs the hemp case, a broader issue will be whether the DEA has overstepped the authority that accompanies so much cash. For its part, the agency is seeking to minimize the importance of its new rule on hemp foods. Last week DEA administrator Asa Hutchinson told TIME the rule could even change in light of recent objections from the public, though that may be small comfort to businesses that lose money until then.

Meanwhile, hemp's defenders crop up everywhere. Three years ago, after a friend convinced former CIA Director James Woolsey of hemp's salubrious ecological profile, Woolsey became a lobbyist for the North American Industrial Hemp Council. Woolsey takes no direct swipes at the DEA, but he impugns its logic. "You'd have to be stark raving mad to try to hide marijuana in the middle of a hemp crop because of cross-pollination," he says. "I'm very proud of the fact that I've been attacked in High Times magazine." A High Times columnist called him a "dirtbag" for promoting hemp's potential to degrade marijuana grown nearby.

Back in Kentucky, Jacob Graves drives out U.S. 60 a little ways east of Leafland. He stops at a historical plaque placed by the state to mark hemp's history. STATE'S LARGEST CASH CROP TILL 1915, it says. "See?" says Graves. "If we get this done, what's old will be new again." Hemp-crust apple pie, anyone?