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Hemp's Last Hurrah

By [Laurel Chesky](#), [Good Times](#)

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On March 21, the U.S. Drug Enforcement Administration released its final ruling on hemp foods, reiterating its previous determination that even food products containing only trace amounts of THC, the psychoactive drug found in marijuana, are illegal. A second ruling exempts body care products, such as soap and shampoo. However, if the DEA chooses to bust hemp oil importers, that industry could dry up as well. The rule does not outlaw the use of hemp fiber and textiles.

Hemp advocates have petitioned the 9th Circuit Court of Appeals in San Francisco to intervene. If it does not, the DEA's rule goes into effect April 21.

Like many legal battles, the fight to keep products made with hemp on store shelves has taken a convoluted route. For three decades, the DEA ignored the commercial use of hemp, which is imported legally from other countries where it is grown legally, such as Canada. The cultivation of hemp in the U.S. is illegal.

But starting in the late 1990s, when the use of hemp began to proliferate in products such as Nature's Path Organic Hemp Plus Granola and Humboldt Brewing Company's Hemp Ale, the DEA took notice. In October, 2001, the DEA delivered an "interpretive rule" deeming that the 1970 Controlled Substance Act outlaws foods containing any amount of THC – as do most foods made from hemp seed and oil, which are extracted from marijuana plants.

Advocates say the DEA's new attack on hemp has more to do with politics than with miniscule amounts of THC. "It's funny [that] only after the industry started growing [the DEA] stepped in," says Adam Eiding, spokesman for the Washington D.C.-based [VoteHemp.org](#). "They hadn't stepped in 30 years. They don't want the industry to prosper because they see it as a counterculture thing. I think it's a cultural war.

"People who eat hemp food tend to be liberal," he continues. "They tend to be Democrats and Green Party. It's a drug war out of control."

But Will Glaspy, a DEA spokesman in Washington D.C. says manufacturers of hemp foods "weren't familiar with federal law" when they opened for business. "That's the reason the interpretive rule was issued," he says. "This is not a new law. THC has always been illegal."

After the DEA released its interpretive rule in 2001, the hemp industry immediately struck back, petitioning the 9th Circuit Court of Appeals in

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San Francisco to intervene. On March 7 of last year, the appeals court issued a stay, blocking the interpretive rule from going into effect.

Hemp advocates, including the Hemp Industries Association and David Bronner, president and chairman of the Escondido, California-based Dr. Bronner's Magic Soaps, which started using hemp in its soaps in 1999, are hoping the court will once again issue a stay. If the court doesn't side with the hemp industry, it could mean the end of an industry. "If the court doesn't issue a stay, we're going to all be out of business," Bronner says.

Hemp food and body care products have become an annual \$40-50 billion industry in the U.S. Food manufacturers desire hemp seed and oil because of their taste and nutrition value – hemp contains high concentration of omega-3 and omega-6 fatty acids. Moreover, many companies have wrapped up their marketing and entire commercial identities in the use of hemp.

However, in light of the appeals court's decision last year and the merits of the DEA's arguments, Bronner remains confident the court will side with the hemp industry.

The strongest argument hemp advocates have against the DEA ruling comes straight from the Controlled Substance Act itself, which specifically exempts hemp oil and seed products. While it outlaws marijuana, the act says the term marijuana "does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination."

The DEA argues that congress members did not intend to exempt hemp products containing THC, which is a controlled substance, to be ingested. The rule provides no threshold for an acceptable level of THC, so food with even the tiniest amount of the drug would be illegal.

"We're saying that if it's going to enter the human body, and THC is illegal, then all those hemp-based foods are illegal, too," says Richard Meyer, spokesman for the DEA office in San Francisco.

But hemp advocates say it's virtually impossible to get high off the trace amounts of THC found in a hemp seed chip. "It's like trying to get drunk on orange juice or getting high from a poppy seed muffin," Bronner says.

The DEA also argues that concentrated amounts of THC could be derived from large volumes of hemp oil or seed, similarly to how methamphetamine makers extract ephedrine from over-the-counter drugs. Bronner says it would take 500 gallons of hemp oil to extract one gram of THC. "For all that trouble, you can just go out and get some marijuana," he says. Should the DEA final rule go into effect on April 21, how hemp product manufacturers and retailers will react – and how the DEA will enforce the rule – remain to be seen.

"We really anticipate that most people are going to voluntarily abide by the law," Glaspy says. "I don't really see that it's going to be that big of an issue."

Contacted on Monday, Bonnie McDonald, a nutrition and body coordinator

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for New Leaf Markets in Santa Cruz, California, had not yet heard about the March 21 rule. "At this moment in time, New Leaf Markets will continue selling the product unless were told by the government not to sell it," she says. "My gut feeling is they'll do another stay, but you never know."

As for Dr. Bronner's, the company will keep using hemp whether or not it's deemed illegal by the DEA. Besides continuing to use hemp oil in his body care products, Bronner says he has plans to introduce a hemp nut nutrition bar, the proceeds of which he plans to donate to hemp advocacy groups. "We're going to keep doing what we're doing," Bronner says. "I guess we'd be technically doing civil disobedience."

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