The Whole Plant Act

Comparison: H.R. 10923, the Public Health and Research Reforms in Controlled Substances Act of 2026

A comparison of the Whole Plant Act, in its standalone federal form, against H.R. 10923, the Public Health and Research Reforms in Controlled Substances Act of 2026, introduced by Representative Cohen on October 29, 2026 and referred to the Committee on Energy and Commerce and, in addition, to the Committees on the Judiciary, Oversight and Government Reform, Natural Resources, Agriculture, and Transportation and Infrastructure. The text read here is the official print as introduced. The bill sets the scheduling committee at no fewer than 15 members and no more than 25. The bill dies when the 119th Congress ends on January 3, 2027. If it is reintroduced in the 120th Congress, it will carry a new number, and this comparison will be checked against the new text.

Read end to end. Section citations are to H.R. 10923, and to the sections of the Controlled Substances Act as the bill would amend them. Citations to the Whole Plant Act are to the standalone Federal Whole Plant Act. A companion amendment package expresses the Act as amendments to this bill. Independent policy analysis, not legal advice.

What the bill does

The bill rebuilds how the federal government schedules drugs, moves scheduling and research authority from the Attorney General to the Secretary of Health and Human Services, and removes marijuana and tetrahydrocannabinols from the schedules. It is a descheduling vehicle, not a product framework.

- **Two sets of schedules.** Four schedules of risk, I through IV, and five schedules of therapeutic value, A through E. Every scheduled substance sits in one of each. Schedule V is eliminated (sec. 104, CSA 202(a), (b)).
- **A new test for control.** "A potential for abuse" becomes "the potential for development of a substance use disorder (not including isolated or occasional nontherapeutic purposes)" (sec. 103, CSA 201(a)(1)(A)). The findings for each schedule turn on the risk of misuse or substance use disorder and the threat to public health, and placement "shall be made to reasonably balance public health and safety with therapeutic value" (CSA 202(b)).
- **New factors.** The Secretary weighs fourteen factors, including routes of administration and pharmacological effects, mortality and damage, therapeutic applications "including self-reported therapeutic use," economic costs, and the threat to public health that scheduling itself creates, "including replacement by alternative drugs or substances" (sec. 103, CSA 201(c)).
- **A scheduling committee.** A committee of at least 15 and not more than 25 members, appointed by the Secretary in consultation with the Director of National Drug Control Policy, including pharmacologists drawn from six named professional societies, board-certified addiction medicine and toxicology clinicians, members of nonprofits that advocate for people with substance use disorders, epidemiologists and case managers. Before any scheduling action it performs a multicriteria decision analysis that is published with its evidence, weights, unaggregated scores and sensitivity analyses. If it recommends against control or removal, the Secretary may not proceed (CSA 201(b)).
- **Reevaluation on a clock.** Thirty-two named substances, including psilocybin, psilocin, ibogaine, MDMA, LSD and mescaline, are reevaluated within two years, and every other scheduled substance within eight. If the Secretary misses a deadline, the bill assigns a default placement (CSA 202(c)(3) through (5)).
- **Marijuana descheduled.** "The Secretary shall remove marihuana and tetrahydrocannabinols from the schedules under this title." The removal is retroactive to offenses, pending cases, convictions and juvenile adjudications, and both are deemed not to meet the requirements for any schedule (CSA 202(c)(6)). Marijuana references are struck from the felony drug offense definition, the penalty provisions of CSA 402 and 403, and the paraphernalia, wiretap, school-zone and under-21 provisions (secs. 102(11), 115 to 120, 401).
- **Sentencing.** The quantity-based penalty tiers in 21 U.S.C. 841(b)(1)(A), (B) and (D), and with them the mandatory minimums, are struck, fines rise sharply, most of them tenfold, the Sentencing Commission revises the guidelines, and a defendant whose penalty is reduced may move for resentencing, with the Bureau of Prisons filing motions for those eligible (secs. 114, 501, 502).
- **Research.** HHS registers scientific investigators, with an expedited 45-day path and a 15-day pilot path run through the National Institute on Drug Abuse, which also supplies the substances (sec. 108).
- **Emerging threats.** The Office of National Drug Control Policy gets a four-level classification system for emerging drug threats, response plans that can call for reference standards and laboratory capacity, a public dashboard and a rapid response fund (title III).
- **The FDA left in place.** Nothing in the marijuana provisions affects the Federal Food, Drug, and Cosmetic Act,

section 351 of the Public Health Service Act, or the authority of the FDA and HHS over cannabis products, and the FDA holds at least three public meetings within a year on regulating cannabis products (secs. 402, 403).

- **Federal employee testing kept.** HHS may continue to test federal employees for marijuana (sec. 404).

Where they agree

Both remove cannabis from the federal schedules (sec. 104, CSA 202(c)(6); Federal Sec. 5(1)).

Both put health authority over cannabis with HHS rather than the Attorney General. The bill moves scheduling to the Secretary; the Whole Plant Act puts cannabis products under a Center for Cannabis Products within the FDA (Federal Sec. 5(2)).

Both judge a substance by what it does to a person. The bill replaces "abuse potential" with the risk of a substance use disorder and weighs routes of administration, pharmacological effects, therapeutic value and the harm that scheduling itself causes. The Whole Plant Act classifies every herbal cannabis item by its effect at the labeled dose (Federal Sec. 3, 4(1)). Neither sorts by the name or origin of the molecule.

Both count what happens to people in the real world. The bill's definition of a threat to public health turns on overdoses and poisonings, emergency encounters, hospitalizations and treatment admissions, compared across regions (CSA 102(69)). The Whole Plant Act collects and publishes unintended-exposure and adverse-event data and uses them in reviewing its standards (Federal Sec. 4(11)).

Both count therapeutic use people report themselves. The bill's factor 5 reaches "self-reported therapeutic use." The Whole Plant Act treats medical use as public-health infrastructure built on a provider's authorization, and recognizes the therapeutic use people make of cannabis (Federal Sec. 7).

Both reach back for people already punished. The bill makes descheduling retroactive and opens resentencing. The Whole Plant Act expunges prior federal convictions for conduct it makes lawful and builds the machinery to deliver relief (Federal Sec. 8(5), 8(8) through 8(15)).

Both open research. The bill's research registration and supply path and the Whole Plant Act's research program (Federal Sec. 7(9)) point the same way.

Where they diverge

1. When descheduling takes effect

The bill directs the Secretary to remove marijuana and tetrahydrocannabinols, but sets no deadline. Section 601(b) keeps every currently scheduled substance under the existing Controlled Substances Act "until such time" as it is placed in the new schedules or removed "pursuant to this Act." The two-year and eight-year clocks in CSA 202(c)(3) and (4) expressly exclude the substances in paragraph (6), and so does the default placement in paragraph (5). Read together, marijuana stays in its current schedule until the Secretary acts, and nothing in the text says when that must happen.

Two further questions sit in the text. The bill does not say whether removal under paragraph (6) runs through a proceeding under CSA 201. If it does, the committee's power to block a removal it recommends against (CSA 201(b)(2)) could collide with a removal the statute directs. And the notice, comment and hearing requirement in CSA 202(c)(2) applies by its terms to placements and removals "under paragraph (1)," which leaves open whether the paragraph (6) removal needs one. Paragraph (6)'s retroactivity language reads as if Congress meant removal to operate broadly, but "shall remove" is a direction to act, not a removal. The Whole Plant Act removes cannabis by statute and sets the date removal takes effect (Federal Sec. 5(1), 15(2)). The amendment package supplies a trigger and closes both questions.

2. The public domain, and patent risk met directly

The bill builds no public record of the plant and says nothing about patents or exclusivity. Descheduling and the public-domain record can run in parallel, and neither has to wait for the other to begin. What matters is that the record is published before the claims it would defeat are filed, and that operators who relied on state law are not shut down by claims already on file. The Whole Plant Act recognizes, or where none qualifies builds, a public-domain reference standard and registry that count as prior art, supports building that record through the botanical-drug framework and a Drug Master File that multiple manufacturers may reference, provides that no approval or exclusivity removes the plant from lawful sale, builds the record in parallel with removal, each part prior art as it publishes, and limits remedies against state-lawful operators for a transition period while counting their prior use (Federal Sec. 6, 15(7)). The bill could carry those provisions without changing anything else in it. The amendment package also offers four further provisions for federally funded research: development of multiconstituent preparations as whole botanical mixtures, a public right of reference to federally funded data, public reference materials, and public disclosure of patent interests arising from federally funded work. The Act carries two of them on its own terms, the right of reference and the reference materials (Federal Sec. 6(12), 6(13)).

3. What regulates products after removal

The bill leaves product regulation to the FDA's existing authority and asks for three public meetings (secs. 402, 403). That has a consequence the bill does not address. Once cannabis is descheduled, the FDA's drug-preclusion clauses at 21 U.S.C. 321(ff)(3)(B) and 331(ll) still bar tetrahydrocannabinol and cannabidiol from conventional food and dietary supplements, because each was first studied or approved as a drug. Federal enforcement over edibles and beverages would move from the Drug Enforcement Administration to the FDA, with no framework for lawful sale. The Whole Plant Act supplies the framework: classification by intoxicating potential at the labeled dose, an interim line, testing, labeling, the age line, the general-retail package condition, and the lifting of the drug-preclusion clauses for naturally occurring cannabinoids (Federal Sec. 4, 6(8), 13). The package adds it as a companion title.

4. Tetrahydrocannabinols however produced

The bill removes "tetrahydrocannabinols" without distinction, so synthetic and converted tetrahydrocannabinols leave the schedules along with the plant. Synthetic cannabinoids that are not tetrahydrocannabinols and are listed separately stay where they are. The Whole Plant Act also declines to sort by method of production, and pairs that with disclosure of the production method and testing of byproducts and residues as contaminants (Federal Sec. 4(1), 4(18)). Without that pairing, descheduling converted cannabinoids leaves no federal standard for what conversion leaves behind.

The Act reaches the same point. A tetrahydrocannabinol made outside the plant is not the plant, so removing only "cannabis," which the Act defines as the plant (Federal Sec. 3(11)), would leave a synthesized tetrahydrocannabinol in schedule I even though the Act classifies it by intoxicating potential like any other cannabinoid. The bill's wording, "marihuana and tetrahydrocannabinols," reaches both, and the Act's federal text removes cannabis and every tetrahydrocannabinol however produced (Federal Sec. 5(1)).

5. Hemp

The bill does not amend the hemp definition at 7 U.S.C. 1639o or section 781 of division B of Public Law 119-37. Once marijuana and tetrahydrocannabinols are off the schedules, the hemp definition no longer separates a lawful crop from a controlled one, but it still governs the USDA program. Until removal takes effect, section 781 applies in full from December 11, 2026, and a finished product above 0.4 milligrams of total tetrahydrocannabinols per container is marijuana that the bill leaves in its current schedule until the Secretary acts. The Whole Plant Act regulates industrial cannabis as an agricultural commodity by end use and ends the concentration line (Federal Sec. 12).

6. The person and the workplace

The bill keeps federal employee testing for marijuana at HHS's discretion (sec. 404). The Whole Plant Act ends pre-employment and random cannabis testing in federal employment except where a safety-critical function requires it, and treats the presence of cannabis or its metabolites without impairment as no basis for an adverse action (Federal Sec. 9(5), 9(8)).

7. The states

The bill's only nonpreemption clause covers the new emerging-threat system (title III, ONDCP Act sec. 709(e)(5)). After descheduling, federal law no longer prohibits state cannabis markets, which leaves states room, but the bill sets no floor for interstate commerce and no national standard for products moving between states. The Whole Plant Act makes the federal role a floor, opens interstate commerce on a national standard, and keeps each state's authority to restrict or prohibit sale (Federal Sec. 5(5), 5(6), 13).

8. Treaties

The bill excepts from its scheduling findings any control "required by United States obligations under an international treaty" (CSA 202(b)), and keeps the Secretary's duty to control a substance where a treaty requires it (CSA 201(d)(1)), but directs removal of marijuana anyway (CSA 202(c)(6)). The Single Convention on Narcotic Drugs lists cannabis, so the provisions pull against each other. The Whole Plant Act states that removal governs as domestic law and directs the Secretary of State to begin conforming the treaty obligations within a year (Federal Sec. 16(9)).

9. The committee

The bill's scheduling committee has no conflict-of-interest disclosure, although its recommendation against control or removal binds the Secretary. The Whole Plant Act requires the members of its advisory committee to disclose publicly every ownership, employment, consulting and contractual relationship with a regulated person, and to recuse from matters concerning their own interests (Federal Sec. 5(7)(b)). Because the Secretary appoints the members, the arrangement likely satisfies the Appointments Clause. The narrower question, whether Congress may draw members from the membership of private societies and make their recommendation binding, is one for the sponsor's counsel.

Where the scheduling overhaul and the Act line up

The bill's scheduling reforms do not touch cannabis once it is removed, but they share the Act's frame, and the Act's federal text should stay consistent with them.

The bill measures risk by substance use disorder and threat to public health, not "abuse." The standalone Federal Whole Plant Act does not use "abuse" as a test.

The bill's factor 1 counts "routes of administration and pharmacological effects." The Act's classification turns on the item as administered, including formulation, route and the interaction of its constituents at the labeled dose (Federal Sec. 4(1)). The two describe the same thing at different scales.

The bill's threat-to-public-health criteria and the Act's exposure and adverse-event data (Federal Sec. 4(11)) count the same events. The Act's data could feed the bill's emerging-threat dashboard without either changing.

The bill keeps the Attorney General's registration of manufacturers, distributors and dispensers, and redesignates the subsections of CSA 303. The Act's provision on registration before removal takes effect cites section 303 as a whole and the term "state medical marijuana license," so it survives the redesignation unchanged (Federal Sec. 15(9)).

The Act removes cannabis and every tetrahydrocannabinol however produced, the same reach as this bill, as noted under point 4.

What the Whole Plant Act would add to this bill

These additions would ride the bill without changing its scheduling reforms. The amendment package drafts each one.

1. A trigger for removal of marijuana and tetrahydrocannabinols by operation of law, either the Act's own sequence or a fixed date, with the committee veto and the hearing requirement made inapplicable to that removal.
2. The public-domain reference standard and registry as prior art, the exclusivity rule, the record built in parallel with removal, and the transition remedies limit and prior-use rule (Federal Sec. 6, 15(7)), with four further provisions for federally funded research.
3. A product framework under the FDA that classifies by intoxicating potential at the labeled dose, with an interim line, testing, labeling, the age line and the general-retail package condition, and the lifting of the drug-preclusion clauses for naturally occurring cannabinoids (Federal Sec. 4, 6(8), 13).
4. Disclosure and byproduct testing for converted and synthesized cannabinoids (Federal Sec. 4(18)).
5. Industrial cannabis by end use (Federal Sec. 12).
6. Federal employment testing limited to safety-critical functions (Federal Sec. 9(8)).
7. A federal floor and a national standard for interstate commerce (Federal Sec. 5(5), 13).
8. A treaty provision (Federal Sec. 16(9)).
9. Conflict-of-interest disclosure for the scheduling committee (Federal Sec. 5(7)(b)).

Four federal scenarios

Scenario	H.R. 10923 as introduced	H.R. 10923 with the package	Federal Whole Plant Act
Enacted as introduced	Marijuana stays in its current schedule until the Secretary removes it, with no deadline; products fall to the FDA's existing authority, under which THC foods remain barred	Removal by law on a set trigger, with the record in place first and a product framework ready	Removes cannabis by statute on a fixed sequence
Section 781 takes full effect December 11, 2026 first	Intoxicating products are marijuana until the Secretary acts	Products move from the hemp split to classification by intoxicating potential once removal takes effect	Makes 781 moot by descheduling
Medical-only Schedule III stays in place	Registrations continue until removal; nothing addresses the registered operators after it	Registered and state operators meet one standard, then one market	State Whole Plant Acts treat registration as a voluntary election per line of business
The scheduling reforms pass without the marijuana title	Every other reform stands; cannabis stays where it is	Same	The Federal Whole Plant Act carries descheduling on its own

The bottom line

The bill's scheduling reforms point where the Whole Plant Act points: away from "abuse potential" and toward what a substance actually does to a person, with health authority at HHS and scientists and clinicians in the room. Its descheduling of marijuana and tetrahydrocannabinols is the outcome the federal Whole Plant Act also reaches.

What it does not do is say when removal takes effect, build the public record that keeps the plant from being enclosed by patents, or give products a framework once the Drug Enforcement Administration steps out. Each of those can be added without disturbing anything the bill does. The bill will need a sponsor in the next Congress and may be revised before then, which makes this the time to add them.

How the Act holds whichever way this bill fares

Weight-bearing policy is policy that holds whichever party is in power and whichever way federal action goes, because its structure does not depend on any one outcome. The Whole Plant Act is weight-bearing, and it holds against every outcome for this bill. If the bill passes as introduced, the state Whole Plant Acts already classify by intoxicating potential and carry a federal registration election that simply stops being needed when removal takes effect. If it passes with the package, it becomes the descheduling half of the same frame. If only its scheduling reforms pass, nothing in the Act depends on them. If it fails or is revised, the standalone federal bill and the state bills are unchanged.