The Whole Plant Act

Comparison: H.R. 9830, the Lawful Hemp Protection Act

A comparison of the Whole Plant Act, in its standalone federal form and its amendment-package form, against H.R. 9830, the Lawful Hemp Protection Act, introduced by Representatives Barr and Craig on July 22, 2026 and referred to the Committees on Ways and Means, Energy and Commerce, Agriculture, and Transportation and Infrastructure. That referral tracks the bill's four mechanisms: the tax chapter, the Food and Drug Administration framework, the hemp definition, and the highway-funding driving provision.

Read against the introduced text of H.R. 9830 as printed, end to end. Every section citation below was checked against that text. Citations to the Whole Plant Act are to the standalone Federal Whole Plant Act unless otherwise marked. Independent policy analysis.

Where they agree

Stated first, so the rest is not mistaken for opposition to safety.

Both age-gate sales to 21 and over. H.R. 9830 gates the sale of every hemp-derived cannabinoid product, not intoxicating ones alone. Both require third-party laboratory testing, accredited to ISO/IEC 17025 in H.R. 9830, along with standardized labeling and clear dosing disclosure. Both restrict child-appealing packaging and require child-use protections. H.R. 9830 does it through misbranding triggers at 403(z), including a bar on packaging that imitates imagery used to advertise to children and a child-warning requirement. The Whole Plant Act bars copycat packaging at Section 4(10) and directs marketing limits on content appealing to those under 21 at Section 4(11).

Neither imposes a per se blood or bodily fluid threshold for impaired driving. H.R. 9830's section 180(d), added by section 9, is a rule of construction: it declines to require states to develop a per se threshold as a precondition for enforcement, though it leaves a state free to adopt one. The Whole Plant Act goes further and takes an affirmative impairment-first posture, for the reason both approaches point at: tetrahydrocannabinol metabolites linger long after impairment ends, and a per se number criminalizes chemistry rather than conduct.

Both would prevent lawful hemp commerce from being extinguished by the amended hemp definition at section 781 of division B of Public Law 119-37. That provision takes effect on November 12, 2026, but section 2019 of division B of Public Law 119-103 limits it until December 11, 2026 to products containing cannabinoids not capable of being naturally produced by the plant. The exclusion of cannabinoids the plant can make that were synthesized outside it, the 0.3 percent cap on intermediate products, and the 0.4 milligram per container cap on finished products all begin on December 11, 2026, which is also the expiration date of the continuing resolution in division A of that Act. H.R. 9830 repeals section 781 outright at its section 3(b).

That repeal is worth holding up against the other live vehicle, because the two do opposite things with the same provision. S. 5022 does not repeal section 781. Its section 803(b) amends it technically, restating the effective-date language and pushing the cross-reference to the hemp definition out to 365 days after S. 5022's own enactment. So on the question of the closure, H.R. 9830 removes the provision and S. 5022 keeps it and reschedules part of it. Anyone weighing the two vehicles on hemp should know that.

And both separate the non-cannabinoid crop by what it is grown for. Section 3 rewrites the industrial hemp definition at section 297A(2) into six end-use categories: stalk and fiber, whole grain and seed products, microgreens and edible leaf, research plants that never enter commerce, viable seed produced for those uses, and non-intoxicating non-cannabinoid essential oils, terpenes and volatile compounds. That is the Whole Plant Act's own industrial track in all but name, drawn by end use rather than by a concentration line, and the amendment package retains it. The one seam is that the microgreens category at section 297A(2)(C) still reaches back to the concentration threshold at paragraph (1)(C)(i), so one of the six categories remains tied to the number the other five escape.

On synthesized cannabinoids the two differ, and it is a real policy choice rather than shared ground. H.R. 9830 bans the novel-structure synthetics by name, including hexahydrocannabinol, tetrahydrocannabinol acetate, and tetrahydrocannabiphorol, and moves the broader converted-cannabinoid economy outside the definition of hemp by inserting "naturally occurring" at section 3. The Whole Plant Act regulates every cannabinoid by intoxicating potential and requires disclosure of production method, so an intoxicating synthetic is controlled through the intoxicating channel rather than banned outright and driven to the margins. Reasonable people can prefer either.

The divergence in one table

Axis	H.R. 9830	The Whole Plant Act
Sorting	Keeps the hemp and marijuana split, raising the line	One botanical input, classified by intoxicating potential at the

principle	to 1 percent total tetrahydrocannabinol including the acid form, which forecloses retail tetrahydrocannabinolic acid flower (Sec. 3)	labeled dose (Federal Sec. 3, 4)
Whole flower	Excluded from the dietary supplement category and foreclosed in practice by dosing, packaging and finished-form testing rules (Sec. 4, FDCA 201(uu)(3)(B), 425)	Classified and sold by intoxicating potential like any other herbal cannabis item, so it is not foreclosed by form (Federal Sec. 4)
Dose limits	Fallback limits of 5 milligrams per serving oral, 50 inhalable, 50 topical, binding only if the Secretary fails to act within 12 months (Sec. 4, FDCA 425(b)(4))	Set by rule, keyed to dose, formulation, and route of administration (Federal Sec. 4)
The person under 21	Possession or consumption of any hemp cannabinoid product, including non-intoxicating cannabidiol, is a federal prohibited act with no therapeutic or parental exception (Sec. 4, FDCA 331(kkk)(2))	No arrest or imprisonment for responsible personal possession; conduct is the offense, not the molecule (Federal Sec. 8)
Federalism	Section 10(a) preserves state authority to be more stringent or as protective as an alcohol-comparable scheme; a more permissive state law is barred by the Act's own prohibitions, not by 10(a)	Federal role is a floor, not a ceiling; states run their own markets at or above it (Federal Sec. 5)
Market entry	A discretionary federal permit, unpermitted operation a felony only with intent to defraud, a three-tier system for beverages, tied-house rules, United States-only sourcing, and a sealed intermediate-ingredient market (Sec. 4, 6, 7, 8)	Antitrust with no cooperative exemption and standards that do not favor the largest, no mandatory distributor tier, authentication on existing data (Federal Sec. 13)
The tax	Three federal taxes, including 5 percent of a manufacturer's sales revenue, which falls on revenue whether or not the operator profits (Sec. 6, IRC 5901, 5901A, 5901B)	Excise by intoxicating potential, disciplined below the point price returns buyers to the unlicensed market, graduated by scale at every stage (Federal Sec. 11)
The commons	Per-product certificates of analysis; cannabinoid lists with a duty to update periodically but no interval; no public record of the plant (Sec. 4, FDCA 425(a), (d))	A public-domain reference standard and registry as prior art, built with the National Institute of Standards and Technology as the federal measurement partner, kept current on a fixed cycle with an open petition path; a drug approval cannot enclose the plant (Federal Sec. 6, 13(1))

Where they diverge

1. One botanical input, or the threshold raised

H.R. 9830 keeps the two-framework structure. Section 3(a) rewrites the hemp definition to Cannabis sativa L. and its naturally occurring derivatives at a total tetrahydrocannabinol concentration, expressly including tetrahydrocannabinolic acid, of not more than 1 percent on a dry weight basis.

Raising the line from 0.3 percent relieves the fiber and cannabidiol crop that fails today's hot-crop tests, which is a real benefit. But because the acid form counts toward the total, the same provision forecloses retail tetrahydrocannabinolic acid flower, a major intoxicating hemp category, without the bill ever using the word smokeable. The line moves; origin and concentration remain the sorting principle.

The Whole Plant Act removes the sort. There is one botanical input, and a product is regulated by its intoxicating potential at the labeled dose, not by the plant or the process it came from. Raising a threshold moves the fight. Removing it ends it.

That the threshold is negotiated rather than pharmacological is demonstrated by the other live vehicle. S. 5022 also abandons the delta-9 test and also adopts a total tetrahydrocannabinol equivalent measure counting the acid form. But where H.R. 9830 sets one line at 1 percent, S. 5022 sets two: 0.7 percent for raw plant material, and 1 milligram per 100 grams, roughly a thousandth of that, for anything processed, extracted, or concentrated. So on raw flower the two bills land within a factor of two of each other, and on extract they diverge by three orders of magnitude. Same Congress, same session, same measurement concept, and the gap between them tracks whether the material has been processed, which is a commercial and enforcement variable rather than a property of the plant. If the number were a fact about the cannabinoid, that could not happen.

2. What may be sold

Under H.R. 9830 a hemp-derived cannabinoid product is deemed a food at section 201(tt)(2). The separate dietary supplement category at section 201(uu) is oral-only by design: subsection (3) excludes products for inhalation, application to the skin or transdermal absorption at (A), raw floral hemp material and unfinished ingredients and work-in-process materials at (B), industrial hemp at (C), and non-cannabinoid hemp seed products at (D).

So flower is not banned by name, and its exclusion is part of a structural choice rather than a targeted one. What forecloses it in practice is the surrounding architecture: per-serving dosing, packaging, and finished-form testing requirements built around a manufactured, measured product that whole flower does not fit.

The deeming has a second consequence the bill may not have intended. Section 201(tt)(1)(D) says a hemp-derived cannabinoid product may include ingestibles, beverages, oral tinctures and sublinguals, capsules and tablets, inhalables, and topicals and transdermals. Section 201(tt)(2) then deems every one of them a food. So a vape cartridge and a transdermal patch are foods within the meaning of the Act, and the food additive and generally-recognized-as-safe machinery, including the new adulteration triggers at section 402(j)(4) and (j)(5), applies to articles nobody eats. The safety questions for an inhaled product are combustion and device questions, and a food frame does not ask them. The Whole Plant Act classifies by intoxicating potential and then sets form-specific requirements, with heightened rules for inhalable products at Federal Section 4(13), which is how the inhalation question gets asked on its own terms.

The Whole Plant Act classifies whole flower the way it classifies any herbal cannabis item, by intoxicating potential, routing intoxicating forms through age-restricted specialty retail. Flower is not foreclosed by a form requirement it cannot meet. The difference is between a market only a manufacturer can serve and a market a farmer can still enter.

3. Dose limits, and a fallback that binds only on inaction

Section 425(b)(1) directs the Secretary to establish maximum allowable amounts within 12 months. Section 425(b)(3) supplies the notice-and-comment process and the informing factors: peer-reviewed research, usage and adverse-event data, expert input, consultation with state regulators, and consideration of product form, intended use and target population. Section 425(b)(2) requires review not less frequently than once every three years or as soon as scientific evidence warrants.

Section 425(b)(4) then supplies amounts that apply only if the Secretary fails to act within that period, and only until the Secretary establishes alternative amounts: 5 milligrams of total tetrahydrocannabinol per serving for oral products, 50 for inhalable, and 50 for topical.

Two things follow. Until the deadline passes there is no statutory cap at all, so the numbers are a penalty for agency inaction rather than a considered limit. And among the three routes, only the oral one is meaningfully constrained. Fifty milligrams on a largely non-systemic topical restricts nothing, which leaves the most measurable and most conservative route restricted by a factor of ten against everything else.

The Whole Plant Act sets limits by rule, keyed to dose, formulation, and route of administration, which is what determines what a serving does rather than how much sits in a gram of plant matter.

4. The person, and a new possession offense

This is the sharpest divergence and the one to get exactly right.

H.R. 9830 makes it a federal prohibited act to sell a hemp cannabinoid product to anyone under 21, at section 331(kkk)(1), and separately for anyone under 21 to possess or consume one, at section 331(kkk)(2). Because a hemp-derived cannabinoid product is defined at section 201(tt)(1) as any finished product containing one or more cannabinoids meeting the hemp criteria, that possession prohibition reaches non-intoxicating cannabidiol and not intoxicating products alone, and the draft carries no therapeutic, parental, or medical exception. A nineteen-year-old with a cannabidiol balm would be committing a federal prohibited act.

That exposure is distinct from the tax chapter, which reaches supply-chain actors acting with intent to defraud. As a matter of enforcement, these acts are pursued mainly by seizure and injunction and consumer prosecutions would be rare. But the statute authorizes the exposure, and findings that open by protecting children build a mechanism that can make the child the offender.

The Whole Plant Act age-gates the sale and creates no possession offense. Enforcement asks about impairment and conduct, not the presence of a molecule.

5. Federalism, a one-way ratchet or a floor

H.R. 9830 preserves state authority in one direction. States, territories and tribes may enact laws more stringent than the Act, or as protective as an alcohol-comparable regulatory scheme, at section 10(a), and may not block compliant products passing through their borders at section 10(b). That leaves room to build an alcohol-style scheme but not to be more permissive: a state that would allow whole flower the federal framework forecloses cannot. The bill benchmarks states to an alcoholic beverage regulatory scheme in its own words, which is the tell that alcohol-style regulation is the national baseline.

The Whole Plant Act inverts the default. The federal role is a floor, covering national standards, the public domain, the person's protections and interstate commerce, and states license and run their own markets at or above that floor. One approach sets a ceiling on how permissive a state may be. The other sets a floor and leaves market design

to the state.

6. Market structure

The market-entry provisions compound.

Supply is sealed at the top. Section 8 makes it unlawful to sell an unfinished hemp-cannabinoid ingredient to any person other than a permitted manufacturer, closing the open bulk-extract market a farmer or small processor sells into today. The penalty is a misdemeanor with a fine of not more than $1,000 plus permit suspension or revocation, so the deterrent is the loss of the permit rather than the fine.

The beverage tier is sealed. Section 5904 of the Internal Revenue Code establishes a three-tier system for hemp-derived beverages, manufacturer to wholesaler to retailer, with no person holding an interest in more than one tier and the separation to be strictly maintained. That mandate is specific to beverages and does not reach cannabinoid products generally, which matters to state accurately: it is an alcohol-style structure applied to the alcohol-adjacent category.

The gate is a discretionary permit. Sections 5902 and 5902A allow denial where premises are not adequate to protect the revenue or on a prediction of non-compliance, operating without a permit and with intent to defraud the United States carries up to five years, while unpermitted operation without that intent falls under the one-year penalty, and section 5902B makes agency fact-findings conclusive where supported by substantial evidence.

And the cost floor selects for scale: the revenue tax, per-batch accredited testing, United States-only sourcing, and the label and bookkeeping load are fixed costs that fall the same on a one-farm operation as on a national brand.

One more entry condition is easy to miss. Section 6(d) adds section 6103(l)(23) to the tax code, and subparagraph (B) directs the Secretary to make publicly available the name and business address of every permitted manufacturer and every beverage wholesaler. For a national brand that is a corporate address. For a farm-scale processor it is frequently a home. The Whole Plant Act authenticates on the reporting and inventory data operators already maintain and publishes the fact and status of a license rather than compelling publication of a residence.

The Whole Plant Act subjects the national market to the antitrust laws with no cooperative exemption, directs that the national standard and authentication not favor the largest operators, declines a mandatory distributor structure, and runs authentication on the reporting and inventory data operators already maintain. State-level ownership and license limits sit in the model bill for a state to enact. It opens capital access through the Small Business Administration and Community Development Financial Institutions with priority keyed to the harm the framework repairs.

7. The tax

H.R. 9830 imposes three federal taxes: 5 cents per milligram of tetrahydrocannabinol on beverages at section 5901, 5 percent of the sale price on other cannabinoid products at section 5901A, and, on top of either, 5 percent of a manufacturer's sales revenue for the taxable year at section 5901B.

Two of the three use different bases for the same substance. A beverage is taxed by cannabinoid content, at 5 cents per milligram of tetrahydrocannabinol. Everything else is taxed by price, at 5 percent of the sale price. So the same ten milligrams of tetrahydrocannabinol carries a fixed 50 cents in a can and a price-dependent amount in a gummy, and the gap between the two is an arbitrage incentive that tracks product form rather than intoxicating potential. A high-dose, low-price product is the cheapest way through.

The third tax is the sharp one, because it taxes revenue rather than profit, so a thin-margin or unprofitable maker owes it anyway. That is the same mechanism that makes section 280E of the tax code a prohibition tool: a revenue tax is scale-selective, survivable by the large and lethal to the small. The bill repeals the hemp definition change at section 781 and imposes a scale-selective tax load in the same breath.

Where the revenue goes is also a choice. Section 9512 establishes a Trust Fund for Oversight of Hemp-derived Cannabinoid Products, which runs the regulatory machinery the Act creates, and section 9503(g) appropriates amounts equal to 1 percent of beverage tax receipts into the Highway Trust Fund to support state enforcement of the driving standard, so consumers fund the apparatus that polices them.

The Whole Plant Act keys its excise to effect, disciplines the combined burden below the point price returns buyers to the unlicensed market, graduates the rate by scale at every stage rather than one, and directs revenue first to running the framework, the medical program, patient access, and the public-domain standard, then to restorative justice and community reinvestment, ahead of impairment-based enforcement. The difference is what the revenue is for: running the framework and repairing the harm, rather than funding a prohibition apparatus.

8. Medical use, and what a product may say

H.R. 9830 deems every hemp cannabinoid product a food at section 201(tt)(2) and makes it misbranding, at section 403(z)(7), for labeling to make any claim regarding the product's effect, or lack thereof, on the structure or any function of the body. That bars the ordinary wellness claim a supplement may make, and through the "or lack thereof" language it bars the reassuring claim too: a maker of a non-intoxicating product may not tell a consumer that it does not impair.

Read alongside its neighbors, the asymmetry sharpens. Sections 403(z)(5) and (6) require the labeling to carry a disclaimer of the risks posed by the cannabinoid contained, including the risk of failing a drug test, and a disclaimer that the Food and Drug Administration has not determined the product safe or effective for treating any condition. A maker is compelled to state risk and forbidden to state its absence.

And section 5 permits a Medicare Advantage plan to cover a hemp-derived cannabinoid product as a supplemental benefit for the chronically ill, with a beneficiary engagement incentive at section 5(b). So a federal health program may pay for a product whose maker may not lawfully say it does anything.

The Whole Plant Act builds medical use as public-health infrastructure: provider education, insurance pathways, standardized whole-plant preparations, the abolition of a fixed qualifying-condition list, and parity for veterans. H.R. 9830's own findings say veterans and seniors rely on these products. The Whole Plant Act treats that reliance as infrastructure to support rather than a food to be silenced.

9. Impaired driving

Neither bill imposes a per se threshold, and the comparison credits that. H.R. 9830 declines to require one; the Whole Plant Act affirmatively rejects the approach.

The enforcement around it differs. Section 9 inserts a new section 180 of title 23 titled Zero Tolerance For Impaired Driving. Subsection (a) withholds 10 percent of a state's highway apportionment from fiscal year 2027 forward unless the state adopts a conforming law. Subsection (b)(2) requires that a person impaired by hemp face the same penalties, fines, license suspensions and sanctions as apply to alcohol or other impairing substances under state law, and subsection (c) requires a state's own laws to apply penalties for hemp impairment no less stringent than those applied to alcohol-related impairment.

Subsection (b)(1) supplies the assessment standard, and it is more specific than it is usually credited: impairment due to hemp is assessed using the same field sobriety evaluation standards and protocols officers apply to lawfully prescribed pharmaceuticals, naming opioids and benzodiazepines. So a standard exists. The problem is that it is borrowed, and it carries the known reliability limits of field sobriety assessment into a substance whose metabolites persist long after impairment ends. Mandating alcohol-level penalties on that footing is the setup that produces pretextual stops and disparate enforcement, and a person who used a lawful, non-impairing product can be swept in.

The Whole Plant Act affirmatively rejects per se and requires assessment by a validated all-cause method that measures present impairment from any cause, without the funding threat and without the penalty mandate. Two 2026 trials show the measure missing impairment in both directions. Wolinsky and colleagues in the Journal of Analytical Toxicology gave 60 adults 100 milligrams of cannabidiol with between zero and 3.7 milligrams of delta-9-tetrahydrocannabinol and found no significant difference from cannabidiol alone on any pharmacodynamic outcome, while urine tests at the federal cutoff turned positive from 1 milligram upward; their conclusion is that a positive urine delta-9-tetrahydrocannabinol test may result from low doses that do not produce intoxication or impairment. A randomized crossover trial in JAMA Network Open found the reverse, oral tetrahydrocannabinol degrading lane control at 10 and 20 milligrams while peak whole-blood concentrations stayed at 1.6 and 3.4 nanograms per millilitre, below the 5 nanogram line states use. A concentration can sit above a cutoff with no impairment and below one with impairment present.

It also builds the evidence base that the word validated depends on. Federal Section 9(9) directs the Secretary of Health and Human Services, through the National Institutes of Health and in coordination with the Center and the National Institute of Standards and Technology, to conduct and publish research on acute impairment, on the relationship between cannabinoid and metabolite concentrations and impairment, and on how candidate assessment methods perform in workplace and roadside settings. The data and the methods are published, so that no proprietary method becomes the condition of proving or disproving impairment, and an agency running a federally mandated testing program reports biennially on its progress toward impairment-based standards. A statute that turns on a validated method and funds no validation leaves the officer holding the borrowed protocol, which is where H.R. 9830's assessment standard stands.

10. The commons

H.R. 9830 requires each product to carry its own certificate of analysis reachable by a QR code, another scannable mechanism, or an internet address at section 425(a)(3)(H), which is a genuine transparency gain, and directs publication within 90 days of two lists at section 425(d)(1): all cannabinoids known to be capable of being naturally produced by the plant as reflected in peer-reviewed literature, and all tetrahydrocannabinol class cannabinoids known to be naturally occurring.

Section 425(d)(2) directs the Secretary to periodically review and update those lists. A duty exists. What it lacks is an interval, and the contrast is internal to the bill: section 425(b)(2) gives the maximum allowable amounts a hard cadence of three years or sooner as science warrants. The bill knew how to write a review clock and wrote one for the dose numbers, not for the lists.

That matters because of section 402(j)(2), which makes a product adulterated if it contains a cannabinoid not on the lists. There is also no path for a maker to submit a newly characterized natural cannabinoid for addition. So a real cannabinoid the agency has not yet listed is adulterated by default, for as long as the agency does not act.

The data the bill does make public is per-product and product-facing. It builds no public reference record of the plant itself, and nothing in the bill stops the plant and its preparations from being patented and enclosed.

The Whole Plant Act treats the plant's characterization as a public good: a public-domain reference standard and registry treated as prior art, fed by non-proprietary certificates of analysis, kept current on a fixed cycle with an open petition path, and a rule that a drug approval does not remove the underlying plant, cannabinoid or preparation from lawful sale.

The standard that record feeds is developed with the National Institute of Standards and Technology as the federal partner for reference methods, measurement and reference materials, at Federal Section 13(1), alongside the consensus standards bodies whose work it incorporates. That is the difference between a published list of cannabinoid names, which is what section 425(d)(1) directs, and a reference standard a laboratory can measure against.

The bottom line

H.R. 9830 is built on real safety concerns, and that is what makes it effective. Age-gating, testing, labeling, product standards and a ban on the truly novel synthetics are right, and the Whole Plant Act does all of them. H.R. 9830 requires an accredited test after post-harvest processing or extraction and again in the form sold to a consumer, at section 425(c)(1)(B), which is two points rather than one; what it does not reach is the cultivation stage, where the Whole Plant Act's testing standard begins.

Underneath the safety, the bill makes possession by any person under 21, which includes adults aged 18 to 20, of any hemp-derived cannabinoid product a federal prohibition, forecloses whole flower and tilts the market toward the manufactured and permitted form, stacks a permit, a distribution mandate and a revenue tax that together select for scale, permits states to move in one direction only, enforces a driving regime through funding coercion and a borrowed assessment protocol, and builds no public record of the plant while leaving it open to enclosure.

The Whole Plant Act reaches the same safety by a different route: classify by intoxicating potential, protect the person, keep the states' authority, keep the market open to the small operator, and keep the plant itself in the public domain. It exists in two forms ready now, a standalone federal bill and an amendment package that corrects this vehicle at its foundation.

The question this comparison puts to a member is not whether to regulate hemp. It is whether the framework that regulates it should criminalize the consumer, fence out the small operator, and enclose the plant to get there, when one is drafted that does none of the three.