

*"If you read it on the internet, it must be true"*

— Albert Einstein (according to the internet)

A while back, somebody contacted me about buying honey. They wanted a source of local honey as an ingredient in CBD-oil smoothies that they were planning to sell in a shop down East. I thought that was odd. Then this past winter, two completely different acquaintances told me that they were selling honey mixed with CBD oil. I said that I was surprised that it was legal to do that, and both people replied that they "had looked into it" and "it is perfectly okay" to do so.

Having spent my entire working career under the umbrella of State and Federal regulations, first in the electric utility arena and then in pharmaceuticals, I wasn't convinced by vague statements about somebody "looking into it." So I decided to find the real story about whether we beekeepers can extend our product line by adding CBD oil to our honey. I soon discovered why people are confused, and also why, once you look at the question from the correct perspective, it is unmistakably clear that we cannot legally sell honey with CBD oil added!

### What is CBD oil, anyway?

CBD is the abbreviation for cannabidiol, one of the compounds found in the plant *Cannabis sativa L.*, also called marijuana or hemp (more about that later). Another notable compound found in the same plant is tetrahydrocannabinol (THC), which is responsible for the "high" that marijuana users experience. CBD users claim CBD has desirable properties separate from a "high". The CBD oil being discussed in this article contains only an insignificant trace of THC, if any at all.

### Why has this come up as an issue?

The [Agriculture Improvement Act of 2018](#) (the 2018 Farm Bill) was signed into law on December 20, 2018. For the purposes of the legislation, it defined cannabis plants that have a THC level not more than 0.3 percent as "hemp". Those that have THC exceeding that

**ALL PRODUCTS ARE MADE WITH CBD  
DERIVED FROM INDUSTRIAL HEMP IN  
ACCORDANCE WITH ALL STATE AND  
FEDERAL LAWS**

*This disclaimer is on a website that sells honey sticks containing CBD oil. It's on the internet, so it must be true, right?*

threshold are referred to as "marijuana." The Act allows States to control or regulate the production of hemp in basically any way they wish, as long as that production is done in a controlled and monitored fashion.

Here's the interesting bit: North Carolina can now legally allow the production of hemp. But what happens to that hemp *after it is produced* is not up to the state's discretion. Federal laws apply, as applicable, with regard to the products produced from the hemp.

### If the federal law changed, what's the problem?

The US Drug Enforcement Agency (DEA) has [declared](#), *"Products and materials that are made from the cannabis plant and which fall outside the CSA [Controlled Substances Act] definition of marijuana (such as sterilized seeds, oil or cake made from the seeds, and mature stalks) are not controlled under the CSA. Such products may accordingly be sold and otherwise distributed throughout the United States without restriction under the CSA or its implementing regulations. The mere presence of cannabinoids is not itself dispositive as to whether a substance is within the scope of the CSA; the dispositive question is whether the substance falls within the CSA definition of marijuana."*

As a result, you can now find bags of hemp seeds for sale in WalMart, next to the baking flour. You can also legally buy CBD oil. You can take that CBD oil home and mix it with whatever you like, including honey.

But – you **cannot** legally mix CBD oil with food and then sell that mixed product! Why not? Well, DEA isn't the only game in town. The



Industrial hemp can now be legally grown in North Carolina. However the products derived from hemp must still meet Federal requirements and those are often confusing. Photo: Wikipedia

US Food and Drug Administration has something to say about this as well, and [what they say](#) is, “Under section 301(ii) of the FD&C [Food, Drug and Cosmetics] Act, *it is prohibited to introduce or deliver for introduction into interstate commerce any food (including any animal food or feed) to which has been added a substance which is an active ingredient in a drug product that has been approved under 21 U.S.C. § 355 (section 505 of the Act) or a drug for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public.* There are exceptions, including when the drug was marketed in food before the drug was approved or before the substantial clinical investigations involving the drug had been instituted or, in the case of animal feed, that the drug is a new animal drug approved for use in feed and used according to the approved labeling. However, based on available evidence, FDA has concluded that none of these is the case for THC or CBD.

*FDA has therefore concluded that it is a prohibited act to introduce or deliver for introduction into interstate commerce any food (including any animal food or feed) to which THC or CBD has been added. FDA is not aware of any evidence that would call into question these conclusions.”*

So, it is illegal to add any substance that meets FDA’s definition of a drug to food that is offered for sale unless it meets certain exceptions, which FDA specifically says CBD oil doesn’t meet. Since CBD oil, as well as THC, has been investigated in the past under formal research protocols as drugs, they both meet FDA’s definition of a “drug” and they cannot be added to food for sale. This raises all sorts of interesting discussions, such as the fact that if people hadn’t first pushed for CBD oil to be considered a “medicinal product” and conducted research to attempt to prove its worth, it would now be perfectly legal to add it to whatever food they want! But since it has been investigated as a drug it must now be treated as a drug.

### What about North Carolina?

The careful reader will note that FDA regulations relate to food sold in “interstate commerce.” I am not a lawyer, but it seems clear that if someone has a website (and so is de facto advertising their products nationally and internationally), accepts credit cards from out-of-state banks, etc., then yes, they are engaged in interstate commerce. However putting that fine a point on the question is totally unnecessary. The NC Department of Agriculture and Consumer Services has [plainly stated](#), “‘Under federal Food and Drug Administration laws, CBD is considered a drug,’ said Joe Reardon, NCDA&CS assistant commissioner of consumer protection. ‘North Carolina state laws mirror federal laws. This means that CBD cannot legally be added to any human food or animal feed that is for sale.’” In other words, if the Feds have a problem with a product, North Carolina has the same problem.

## Will violators get slammed?

North Carolina acknowledges that people are confused, and for the moment the NC DA&CS says that it is taking an “educate before regulate” stance with the public. But the law is the law and illegal is illegal. The FDA has already sent [warning letters](#) to many violators; they are easy to find via their internet ads! Regulators undoubtedly will work down the list as priorities allow and should eventually get to everybody.

In the meantime, everyone who has read this article now knows better so ignorance of the law cannot be an excuse. If you want to sell honey, great! If you want to sell CBD oil, you can do that, as long as you don’t make any health claims. But you cannot legally sell CBD oil in the honey!

**Disclaimer:** I am not a lawyer and I do not offer professional legal advice. My intent with this article is to cut-and-paste the statements of federal and state government agencies and officials so that you can follow up on those as you see fit.

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The screenshot shows the NC State Extension website. The header includes 'NC STATE EXTENSION' and navigation links for 'COUNTY CENTERS', 'TOPICS', and 'GIVE NOW'. A search bar is present. The main content area is titled 'Planting Sources (Seeds, Clones, Transplants)' and includes a list of sources and a reminder to notify the department of agriculture. The sidebar contains links to 'Meet Our Staff', 'Events', 'Industrial Hemp Pilot Research Program', 'Important Program Forms', 'Frequently Asked Questions (FAQ)', 'Planting Sources (Seeds, Clones, Transplants)', 'Hemp Connections', 'Hemp Resource Links', 'Industrial Hemp Organizations', 'Pending Applications', 'E-Mail Newsletter', 'Agent Resources', and 'Publications & Forthcoming'.

**Not only is the production of industrial hemp now legal in North Carolina, the NC Cooperative Extension Service has resources for farmers who want to grow it. Note that by Federal definition, “hemp” does not contain THC, the stuff that creates a “high”. Legally-grown crops in North Carolina are monitored for compliance.**  
<https://industrialhemp.ces.ncsu.edu/>