



CONSUMABLE HEMP PROGRAM IN TEXAS

— An Overview

Legal definition of hemp:

Cannabis Sativa L. plant with Delta-9 THC concentration not more than 0.3% on a dry weight basis.¹ Other cannabinoids are naturally occurring in the hemp plant, but not in quantities economical for extraction. To produce hemp-derived psychoactive cannabis products, cannabidiol (CBD) is extracted and synthesized in a laboratory to create tetrahydrocannabinols (THC). THC does have impairing effects.

Consumable Hemp Products (CHPs) come in many forms:

- **Flower:** smokable flower is the bud from the plant, and enhanced flower products combine other concentrated THC products with the flower
 - » Additionally, THC-A, or tetrahydrocannabinolic acid, falls under the definition of hemp in its original flower form. Once heated, the acid (A) drops off and becomes Delta-9 THC through a process called decarboxylation. This process delivers desired psychoactive effects from active cannabinoids.²
- **Concentrates:** vapes, dabs, wax, budder, badder, and shatter
- **Edibles:** chocolates, gummies, cookies, and candies
- **Liquids:** tinctures, syrups, and beverages



Regulatory Challenges for Consumable Hemp Products:

Serving sizes: In states with regulated, adult use cannabis markets, potency per serving size is capped, mostly at 10mg of THC per serving and 100mg per package.³ CHPs being sold online and in retail locations across Texas have hundreds, if not thousands, of milligrams of THC per package, as there are no restrictions on potency. These high potency products are a risk to consumers and public health.

Sales of THC and Alcohol in Combination: All states that allow for the public consumption of THC products, strictly prohibit the use of both substances at on-premise licensed establishments.⁴ This combination of substances is responsible for the most fatality and serious injury crashes on our roadways.

Youth Access: The availability of CHPs in various forms, including those that are attractive to younger audiences, raises concerns about accidental ingestion by children or intentional use by adolescents. Currently, there are no regulations regarding youth access, including: no age restrictions, no packaging/marketing restrictions, no limitations on where these products can be sold.

Testing Requirements: At the federal level, hemp testing requirements are only established at the crop level to confirm that a crop is hemp rather than cannabis. While hemp products are limited to no more than 0.3% Delta-9-THC, there are no requirements or standards for finished product potency testing, or for testing of other harmful contaminants.⁵

Warning and Labeling Standards: There are currently no federal standards requiring labels to disclose the THC content of hemp-derived products. Many consumers may be subject to drug testing, for example through their job, or as ordered by a court as a condition of probation. For these consumers, it is especially important to know the THC content of any hemp products they might consume. Other consumers may work in jobs operating vehicles or heavy machinery, where it could be extremely dangerous for them to become unexpectedly impaired because they did not know the products they were consuming contained potentially impairing doses of THC or other cannabinoids.⁵



Responsible Regulation

The Cannabis Regulators Association (CANNRA), a national association of government agencies involved in cannabis and cannabinoid regulations across 45 states, has developed a list of best practices for regulating cannabinoids for safety.⁶ They outline the following areas in need of oversight:

- Licensing and/or Registration of Cannabinoid Processors, Manufacturers, and Retailers
- Processing and Manufacturing Standards
- Age-Gating for Cannabinoid Products
- Product Form, Dose, and Content Regulations
- Packaging and Labeling Regulations
- Advertising Regulations
- Education, Compliance, and Enforcement Programs

When developing policies to address these concerns, it is important to consider public education, regulation integration between agencies, and enforcement.⁷

References

1. Texas Hemp Farming Act. Agriculture Code. Title 5. Subtitle F. Chapter 121. (2019). <https://statutes.capitol.texas.gov/Docs/AG/htm/AG.121.htm#121.001>
2. Wang M, Wang YH, Avula B, et al. Decarboxylation Study of Acidic Cannabinoids: A Novel Approach Using Ultra-High-Performance Supercritical Fluid Chromatography/Photodiode Array-Mass Spectrometry. *Cannabis Cannabinoid Res.* 2016;1(1):262-271. Published 2016 Dec 1. doi:10.1089/can.2016.0020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5549281/>
3. Swinburne, M. R. (2022, October 10). *THC Limits for Adult Use Cannabis Products* [Cannabis Regulations Fact Sheet]. The Network for Public Health Law. <https://www.networkforphl.org/wp-content/uploads/2022/11/THC-limits-for-Adult-Use-Cannabis-Products.pdf>
4. On-site Sales (Other States): Marijuana Policy Project. *State-By-State On-Site Consumption Laws*. MPP.org. <https://www.mpp.org/issues/legalization/state-by-state-on-site-consumption-laws/>
5. Cannabis Regulators Association. An Overview of Regulatory Challenges for Cannabinoid Hemp. [Fact Sheet]. Microsoft Word - [Hemp Regulatory Challenges - Long FINAL.docx \(squarespace.com\)](#)
6. Cannabis Regulators Association. (2024, May 5). Best Practices for Regulating Cannabinoids for Safety. [Fact Sheet]. Microsoft Word - [Best Practices in Minimum Requirements for Regulating Cannabinoids-FINAL 5.5.24.docx \(squarespace.com\)](#)
7. Substance Abuse and Mental Health Services Administration (SAMHSA). Preventing Marijuana Use Among Youth. SAMHSA Publication No. PEP21-06-01-001. Rockville, MD: National Mental Health and Substance Use Policy Laboratory. Substance Abuse and Mental Health Services Administration, 2021. <https://store.samhsa.gov/sites/default/files/pep21-06-01-001.pdf>