

IMPAIRED DRIVING IN THE AGE OF HEMP & CANNABIS

Recognizing, Investigating & Prosecuting
Combined Alcohol & THC Impairment

Prepared for: Law Enforcement | Prosecutors | Traffic Safety Professionals

SESSION OVERVIEW

45–60 Minutes | Including 10–15 Minutes Q&A

01

Texas Hemp Law Landscape

HB 1325 to Executive Order GA-56

02

The Rise of THC Products

Delta-8, THCa, edibles & the market explosion

03

Pharmacology of Impairment

How alcohol & THC interact in the brain

04

Roadside Indicators

What officers observe — signs & clues

05

DRE Protocol & Role

The 12-Step evaluation and its courtroom value

06

Investigation & Prosecution

Documentation, toxicology & case-building

SECTION 01

Texas Hemp Law: The Legal Landscape

From the 2018 Farm Bill to Texas Executive Order GA-56

HOW WE GOT HERE: THE LEGAL TIMELINE

2018

Federal Farm Bill

Legalized hemp federally. Defined hemp as *Cannabis sativa* L. with $\leq 0.3\%$ delta-9 THC by dry weight. Opened the door to hemp-derived cannabinoid products nationwide.

2019

Texas HB 1325 — Texas Hemp Farming Act

Texas followed federal law, legalizing hemp production and consumable hemp products (CHPs). DSHS given regulatory authority. Did not anticipate the emerging market for psychoactive hemp-derived cannabinoids.

2020–23

Market Explosion

Sales of hemp-derived cannabinoids (excl. CBD) increased 1,283%, reaching \$2.78 billion. Texas had 7,000+ registered hemp dispensaries by April 2024. Delta-8, Delta-10, THCa products proliferate.

2025

Legislative Action & Executive Order GA-56

SB 3 (attempted full ban) vetoed by Gov. Abbott. SB 2024 banned cannabinoid vapes effective Sept. 1, 2025. Executive Order GA-56 directed TABC & DSHS to ban THC product sales to minors.

CURRENT LEGAL STATUS IN TEXAS (2025–2026)

Understanding what officers may legally encounter on the roadside

✓ CURRENTLY LEGAL TO SELL

Delta-8 THC gummies, tinctures, capsules

Delta-9 THC products (≤0.3% by dry weight)

THCa flower (raw, unheated)

Delta-10 THC edibles and oils

CBD products (all forms)

Hemp flower (for retail with proper licensing)

Requires DSHS Consumable Hemp License

New: Age verification (21+) at TABC-licensed retailers

✗ BANNED / RESTRICTED

Cannabinoid vapes/e-cigarettes (eff. Sept. 1, 2025)

Delta-8 vape cartridges & disposables

THCa vape products

Vapes made in China or foreign adversary countries

Vape products containing alcohol, kratom, mushrooms

THC products sold to minors (under 21)

Marijuana (>0.3% delta-9 THC) — still Schedule I

Products not meeting DSHS testing/labeling standards

⚠ KEY OFFICER NOTE: Legal products can still cause impairment. Compliance with hemp law does not mean a driver is safe to operate a motor vehicle.

SECTION 02

The Rise of THC Products In Texas

Market growth, product types, and what officers encounter

THE SCALE OF THE PROBLEM IN TEXAS

Market growth since the 2018 Farm Bill has been extraordinary

1,283%

Growth in hemp-derived
cannabinoid sales (2020–2023)

\$2.78B

Annual market value of
hemp cannabinoids (2023)

7,000+

Registered hemp dispensaries
in Texas (as of April 2024)

11.4%

Of 12th graders reported
Delta-8 use in 2023

PRODUCTS OFFICERS ARE ENCOUNTERING

Delta-8 / Delta-10 Gummies

HIGH

Candy-like appearance; often high-dose; commonly confused with regular food items

Edibles & Beverages

HIGH

Infused waters, seltzers, chocolates; delayed onset 30–90 min; often combined with alcohol

Disposable Vapes (now banned)

HIGH

Still in circulation; pre-ban stock + black market; frequently combined with alcohol at events

THCa Flower

CRITICAL

Visually indistinguishable from marijuana; converts to psychoactive THC when smoked/heated

Tinctures & Oils

MOD

Sublingual drops; fast onset; can be concealed easily; difficult to dose consistently

Dabs / Concentrates

CRITICAL

Very high THC/cannabinoid concentrations; wax, shatter, live resin forms; rapid intoxication

SECTION 03

Pharmacology of Combined Impairment

How alcohol and THC interact in the brain and body

ALCOHOL + THC: A DANGEROUS COMBINATION

ALCOHOL (CNS Depressant)

- Impairs tasks requiring cognitive control
- Causes drivers to UNDERESTIMATE impairment
- Dose-related, predictable impairment curve

THC (Cannabinoid)

- Binds CB1 receptors in brain & nervous system
- Disrupts automatic/reflexive driving functions
- Impairs divided attention & tracking
- Causes drivers to OVERESTIMATE impairment
- Variable effect — tolerance, route, dose

COMBINED EFFECT: ADDITIVE TO SYNERGISTIC IMPAIRMENT

- ▶ Alcohol increases plasma THC levels — lower doses of cannabis produce greater intoxication when combined
- ▶ Each substance covers the other's 'blind spots' — together they impair BOTH automatic AND controlled driving functions
- ▶ Drivers combined show increased lane weaving, longer reaction times & greater subjective impairment than either drug alone
- ▶ Drivers unaware of full extent of their impairment — a critical officer safety and public safety issue

WHY THC CASES ARE DIFFERENT FROM DWI-ALCOHOL

FACTOR	ALCOHOL DWI	THC / COMBINED CASE
Detection	Breath test — real-time, accurate BAC	No roadside equivalent. Blood/oral fluid detect metabolites that persist days to weeks after use.
Per Se Limit	0.08% BAC = legally impaired (per se)	No per se THC limit in Texas. Prosecutors must prove actual impairment.
Impairment Proof	BAC test largely sufficient	Observed behavior + officer testimony + DRE evaluation + toxicology all required
Self-Assessment	Drinkers typically underestimate impairment — dangerous overconfidence	Cannabis users often overestimate impairment but attempt to compensate — creates different driving patterns
Tolerance	Chronic use reduces behavioral cues, not crash risk	Chronic heavy users may show fewer signs despite impairment. DRE training critical.

SECTION 04

Roadside Indicators: What Officers Observe

Pre-stop, vehicle stop, and personal contact observations

PRE-STOP DRIVING OBSERVATIONS

Document everything before activating your lights — driving behavior is your first evidence

ALCOHOL-DOMINANT CUES

- ▶ Weaving across multiple lanes
- ▶ Drifting within lane
- ▶ Speed variability (too fast/slow)
- ▶ Wide/erratic turns
- ▶ Stopping in roadway without cause
- ▶ Braking erratically

THC-DOMINANT CUES

- ▶ Hyper-cautious: excessive braking, very slow speed
- ▶ Large following distance
- ▶ Failure to proceed at green light
- ▶ Stopping well short of intersection
- ▶ Focused/tunnel vision driving behavior

COMBINED IMPAIRMENT CUES

- ▶ Weaving COMBINED WITH slow speed (most telling)
- ▶ Erratic then over-cautious pattern shift
- ▶ Failure to maintain lane — then over-correction
- ▶ Near miss followed by extreme caution
- ▶ Unpredictable speed changes with lateral drift

OFFICER TIP: Activate in-car video early. Pre-stop driving behavior captured on video is often the most compelling evidence for juries and is admissible without BAC/THC lab results.

PERSONAL CONTACT INDICATORS

Eyes

- Bloodshot, watery, or red-rimmed eyes
- Dilated pupils (THC primary indicator)
- Lack of convergence (LOC) — eyes fail to cross
- Slowed pupillary reaction to light
- HGN may be present if alcohol involved

Speech & Communication

- Slurred speech (alcohol-dominant)
- Slow, deliberate speech (THC-dominant)
- Difficulty following instructions
- Tangential or rambling conversation
- Memory gaps mid-sentence

Odors & Physical Signs

- Odor of alcohol (breath, clothing, vehicle)
- Odor of burnt cannabis from breath/clothing
- Green plant material on lips or teeth
- Cannabis debris, packaging, paraphernalia
- Food wrappers (edible products)

Motor & Coordination

- Poor balance / unsteady on feet
- Swaying, especially with eyes closed
- Difficulty with fine motor tasks
- Body tremors
- Eyelid or body tremors (THC indicator)

Cognitive Indicators

- Altered time perception (Modified Romberg Balance)
- Inability to estimate 30 seconds accurately
- Paranoia, anxiety, or excessive concern
- Disorientation to time, place, situation
- Euphoria inappropriate to situation

Vital Signs (DRE)

- Elevated heart rate (THC)
- Decreased blood pressure (Alcohol)
- Normal body temperature
- Multiple vital sign abnormalities
- Increased pulse rate (cannabis marker)

SECTION 05

Drug Recognition Expert: Protocol & Courtroom Role

The 12-Step Drug Influence Evaluation & its prosecutorial value

WHAT IS A DRUG RECOGNITION EXPERT (DRE)?

ORIGIN

The DRE program was developed by the Los Angeles Police Department in the early 1970s after officers noticed impaired drivers showing low or zero blood alcohol. Two LAPD sergeants collaborated with physicians and psychologists to create a standardized detection protocol. Adopted by NHTSA in the early 1980s, the program is now administered by the International Association of Chiefs of Police (IACP) as the Drug Evaluation and Classification (DEC) Program.

3-Phase

Training Required

Classroom → Field Certification → Practicum

12 Steps

Standardized Protocol

Same evaluation, every DRE, every suspect

7 Drug

Categories Identified

CNS Depressants, Stimulants, Hallucinogens,
Dissociative Anesthetics, Narcotic Analgesics,
Inhalants, Cannabis

WHY THE DRE IS ESSENTIAL IN THC AND COMBINED IMPAIRMENT CASES

Unlike alcohol, there is no per se THC limit in Texas. The presence of THC in blood does NOT legally equal impairment. The DRE evaluation provides the observable, documented, systematic evidence of actual impairment that prosecutors need to prove the case beyond a reasonable doubt. Without a DRE evaluation, THC impairment cases are significantly harder to prosecute.

THE 12-STEP DRUG INFLUENCE EVALUATION

01

Breath Alcohol Test

Establishes whether observed impairment is consistent with BrAC. If unexplained → DRE called.

03

Preliminary Examination

Rules out medical conditions. Checks pupils, speech, face, breath, coordination.

05

Divided Attention Tests

Modified Romberg Balance, Walk & Turn, One-Leg Stand, Finger-to-Nose. Target cannabis-impaired divided attention.

07

Dark Room Exam (Pupils)

Pupil measurement in 3 light conditions: room light, near-total darkness, direct light. Cannabis → dilated, rebound dilation.

09

Injection Sites / 3rd Pulse

Check for IV drug use evidence. Take third pulse measurement for documentation.

11

DRE Opinion

Totality of evaluation. DRE identifies drug category(ies). Uses Drug Symptomatology Matrix.

02

Interview of Arresting Officer

DRE reviews BrAC, discusses driving behavior, roadside conduct & SFST performance.

04

Eye Examination

HGN (alcohol/DID Drugs), VGN (high doses), Lack of Convergence — LOC is the KEY cannabis eye indicator.

06

Vital Signs (1st & 2nd)

Blood pressure, pulse, temperature. Cannabis: elevated HR. Alcohol: elevated BP acutely.

08

Muscle Tone

Cannabis and stimulants → rigid. Depressants/opioids → flaccid. Assessment of skeletal muscle.

10

Subject's Statements

After Miranda advisement — questions about recent drug use, alcohol, medications, food intake.

12

Toxicological Examination

Blood, urine, or oral fluid specimen collected. Lab results corroborate DRE opinion.

SECTION 06

Investigation, Documentation & Prosecution

Building the case from roadside to courtroom

INVESTIGATION BEST PRACTICES: COMBINED CASES

PHASE 1: INITIAL STOP

- ▶ Activate in-car video before approaching — capture driving behavior
- ▶ Note exact time of stop and time of last observed driving behavior
- ▶ Document weather, road conditions, lighting at time of stop
- ▶ Approach safely — THC + alcohol increases unpredictability

PHASE 3: POST-ARREST

- ▶ Request DRE evaluation IMMEDIATELY — THC metabolizes rapidly
- ▶ Do not delay blood draw — time matters for THC blood levels
- ▶ Obtain warrant for blood if refused — LEADRS
- ▶ Collect any hemp/cannabis products as evidence — photograph in place

PHASES 2 & 3: PERSONAL CONTACT/PRE-ARREST SCREENING

- ▶ Note all odors: alcohol, burnt cannabis, raw cannabis — document in report
- ▶ Observe and document: eye appearance, speech quality, behavior
- ▶ Administer SFSTs per NHTSA standards — document all clues
- ▶ Note product containers, paraphernalia, edibles, vape devices in vehicle

PHASE 4: DOCUMENTATION

- ▶ Report must describe behavior, not just test results — paint a picture
- ▶ Specific quotes from subject about drug/alcohol use are valuable
- ▶ Detail every abnormal observation with location, time, description
- ▶ DRE report + narrative + toxicology = complete evidentiary package

CRITICAL: A low BAC combined with clear impairment signs is your trigger for DRE request — document the discrepancy explicitly.

TOXICOLOGY & PROSECUTION: WHAT YOU NEED TO KNOW

TOXICOLOGY CONSIDERATIONS

Blood is best: Most reliable for acute THC. Collect as early as possible — THC blood concentration declines rapidly after use.

Oral fluid: Detects recent use effectively. Emerging technology; not yet universally available in Texas.

Urine: Detects metabolites (carboxy-THC) days to weeks later. Does NOT indicate current impairment. Explain this clearly to juries.

No per se limit: Texas has no THC threshold. Do not frame the case around blood levels — frame it around observed impairment.

Hemp-derived THC: Delta-8 and Delta-9 are chemically distinguishable in lab analysis but both cause impairment.

Warrant requirement: Missouri v. McNeely — obtain warrant promptly if suspect refuses. Expedited telephonic warrants recommended. (LEADRS)

PROSECUTORIAL FRAMEWORK

1

Charge under Texas Penal Code §49.04 — impairment standard does not require per se THC level.

2

Use the DRE as your expert witness. Pre-qualify the DRE at the outset. Address the 3-phase training and IACP certification.

3

Educate the jury early — explain why no breathalyzer exists for cannabis and how DRE evaluation fills that gap.

4

Present video first. Jurors who see the driving behavior and roadside performance before hearing lab results are more persuaded.

5

Anticipate the defense: cannabis legal, product labeling compliance, chronic user/tolerance arguments. Prepare DRE to address each.

6

Toxicologist testimony: have lab expert explain what blood THC shows and does NOT show. Get ahead of the defense's THC-persistence argument.

ANTICIPATING & COUNTERING DEFENSE CHALLENGES

DEFENSE: *"The product was legal hemp — it had less than 0.3% delta-9 THC."*

RESPONSE: Legal product status is irrelevant to impairment. Alcohol is also legal; and it still can impairment. Many hemp products cause significant impairment at legal concentrations. The standard is driving ability, not product legality.

DEFENSE: *"THC stays in your system for weeks — this THC could be from days ago."*

RESPONSE: Blood THC (not metabolites) indicates recent use. DRE evaluation documents real-time impairment. The DRE observed active impairment; the lab corroborates recent use. (Delta-9; Hydroxy; Carboxy)

DEFENSE: *"My client is a chronic user — they have tolerance and were not impaired."*

RESPONSE: DRE evaluation captures current behavioral and physiological signs. Tolerance does not eliminate all impairment. The video and field performance speak for themselves.

DEFENSE: *"The DRE evaluation is unscientific and unreliable."*

RESPONSE: NHTSA-validated, IACP-certified protocol. Administered identically in all cases. Courts in Texas and nationally admit DRE testimony. Go to DRE's training record and track record.

DEFENSE: *"The BAC was only 0.05% — well below the legal limit."*

RESPONSE: Combined impairment is additive/synergistic (Poly-drug). Research shows even sub-limit BAC combined with THC produces impairment exceeding either drug alone. Officer observed impairment inconsistent with BAC.

KEY TAKEAWAYS

1

Texas hemp law is evolving rapidly. Officers must stay current — what is legal today differs from last year. Legal hemp products can and do cause driving impairment.

2

THC and alcohol interact additively or synergistically. A driver at 0.05% BAC with THC on board may be MORE impaired than a driver at 0.10% BAC alone.

3

There is no roadside breathalyzer for cannabis. Your observations, documentation, and DRE evaluation ARE the evidence. Document everything — behavior, odors, statements.

4

Call the DRE early and request blood immediately. Time is your enemy in THC cases. Delay equals declining evidence.

5

The DRE 12-step evaluation is the cornerstone of Drug and combined impairment prosecution. Without it, these cases are significantly harder to win.

6

Frame prosecution around observed impairment, not lab numbers. Educate jurors about why THC doesn't have a per se limit and why that makes DRE testimony essential.

QUESTIONS & DISCUSSION

"The road to a safer Texas begins with the officer at the window."

RESOURCES FOR FURTHER INFORMATION

- ▶ IACP DRE Program: www.theiacp.org/drug-recognition-experts-dres
- ▶ NHTSA Impaired Driving: www.nhtsa.gov/risky-driving/drunk-driving
- ▶ Texas DSHS Consumable Hemp Program: www.dshs.texas.gov/consumable-hemp-program
- ▶ Texas DRE Drug Evaluation & Classification Program
- ▶ Yancy Green — DRE Instructor & TXSFST Staff Instructor Yancy.green@txsfst.org (903)-245-4589