



TEXAS ALCOHOLIC
BEVERAGE COMMISSION

Supporting Businesses and Protecting Texans

Consumable Hemp Products (CHP)

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How did we get here?



- Prior to 2018
 - Hemp was considered to be marijuana as defined under the Controlled Substances Act (CSA). From 1970 until 2018, the federal government's definition of *marijuana* included hemp and its derivatives, and widespread hemp production was generally prohibited.
 - In 1970, the CSA classified cannabis and its derivatives as Schedule I controlled substances. Thus, their cultivation, distribution, or possession was prohibited—except in the context of approved research studies.

The 2018 US Farm Bill



- The 2018 farm bill carved out hemp from the CSA definition of *marijuana* and also defined *hemp*. As a result, hemp and hemp-derived products at or below the 0.3% delta-9 THC threshold were no longer regulated as Schedule I controlled substances.
- Due to this change, registration with the Drug Enforcement Administration (DEA) was no longer required to cultivate or handle hemp and hemp-derived products. However, hemp remained subject to U.S. Department of Agriculture and Food and Drug Administration (FDA) regulation..

Proliferation of Hemp Cannabinoids



- In the years following the 2018 farm bill, products containing cannabinoids (such as delta-8 THC) were sold across the United States.
- These products were sold in a variety of formats (e.g., gummies, drinks, candies), and some were packaged in containers that were similar to existing snack food brands.
- Both FDA and health professionals issued warnings about these products and their potentially harmful effects. FDA has also issued warning letters to certain companies that were reportedly illegally selling cannabis products citing concerns such as the availability of some of these products to children. These products still remain in the market.

2025 changes to the US Farm Bill



- In November 2025, P.L. 119-37 amended the definition of *hemp* under Title 7, Section 1639o, of the *U.S. Code*, changing the limit to a *total THC concentration* of less than 0.3% on a dry weight basis rather than only delta-9 THC.
- Narrows the definition of hemp, effectively banning most psychoactive hemp-derived cannabinoids, such as delta-8 THC
- Changes to the definition of *hemp* were made to prevent "the unregulated sale of intoxicating" hemp products in light of concerns surrounding the proliferation of hemp cannabinoid products.

Proliferation of Hemp Cannabinoids



- The new hemp definition also excludes hemp-derived cannabinoid products that contain cannabinoids that are not capable of being naturally produced by the cannabis plant or are capable of being naturally produced and were synthesized or manufactured outside the plant.
- Additionally, the law requires FDA within 90 days of enactment to publish lists of naturally occurring cannabinoids, THC class cannabinoids, and all known cannabinoids that have similar effects as THC class cannabinoids.
- The new definition will take effect November 12, 2026.

Texas HB 1325



- Texas passed HB 1325 in June 2019, legalizing the cultivation, processing, and sale of industrial hemp.
- Defined as *Cannabis sativa L.* with a delta-9 THC concentration of not more than 0.3% on a dry weight basis.
- The Texas Department of Agriculture (TDA) handles cultivation licensing.
- Department of State Health Services (DSHS) regulates consumable hemp products (CHPs).

New Hemp Regulations in Texas



- Senate Bill 3, which would have banned all consumable hemp products containing any form of THC. Passed went to Governor's Desk.
- June 2025, Governor Greg Abbott vetoed SB-3.
- September 2025, Governor Greg Abbott issued **Executive Order GA-56**, directing state agencies to implement strict regulations on consumable hemp products (CHPs) containing THC.

Executive Order GA-56



- **Age Restriction:** A ban on the sale of consumable hemp products to anyone under 21 years of age is in effect.
- **ID Verification:** Retailers are required to verify that purchasers are 21 or older using a valid government-issued ID.
- **Severe Penalties:** Violations can result in the immediate revocation of a business's Consumable Hemp License or Retail Hemp Registration.

Executive Order GA-56



- **Agency Action:** The Texas Department of State Health Services (DSHS) and the Texas Alcoholic Beverage Commission (TABC) adopted emergency rules in late September 2025 to enforce these requirements.
- **Enforcement:** TABC and DSHS, along with the Texas Department of Public Safety (DPS), are targeting smoke shops and retailers, with enforcement beginning October 1, 2025.
- **Rule Scope:** The rules apply to consumable hemp products containing THC and other intoxicating cannabinoids

Executive Order GA-56



- The emergency rules are effective for 120 days from their September 2025 adoption.
- TABC and DSHS are working to make these regulations permanent through the standard notice-and-comment rulemaking process.
- Essentially moves Texas toward regulating hemp-derived THC products in a manner like alcohol, rather than an outright ban.

TABC Rule 35.5



- Defines
 - “Consumable Hemp Product is any product processed or manufactured for consumption that contains hemp, including food, a drug, a device, and a cosmetic, but does not include any consumable hemp product containing a hemp seed, or hemp seed-derived ingredient being used in a manner that has been generally recognized as safe by the FDA.
 - "Licensee" and "permittee" means a person who is the holder of a license or permit or any agent, servant, or employee of that person.
 - "Minor" means a person under 21 years of age

TABC Rule 35.5



- A licensee or permittee violates Alcoholic Beverage Code §§11.61(b)(7) or 61.71(a)(16), as applicable, if the licensee or permittee sells, offers to sell, serves, or delivers a consumable hemp product to a minor.
- The commission shall impose the following sanctions for a violation of subsection (b) of this section:
 - (1) suspend for no less than 30 days or cancel the license or permit for a first violation;

TABC Rule 35.5



- (2) suspend for no less than 60 days or cancel the license or permit for a second violation; and
- (3) cancel the license or permit for any subsequent violation.
- The licensee or permittee does **NOT** have the option to pay a civil penalty in lieu of suspension or cancellation. If a license or permit was cancelled. The Licensee or Permittee is not eligible to apply for, and may not be issued, any TABC-issued original license or permit for a period of **five** years after cancellation

TABC Rule 35.6



- A licensee or permittee may not sell, serve, or deliver a consumable hemp product to a person unless the person presents an apparently valid, unexpired proof of identification issued by a governmental agency that contains a physical description and photograph consistent with the person's appearance and that purports to establish that the person is 21 years of age or older.
- Defense to an enforcement action under this section is the ultimate consumer is 40 years of age or older.

TABC Rule 35.6



- If a licensee or permittee fails to abide by the requirements of this section, the licensee or permittee violates Alcoholic Beverage Code §§11.61(b)(7) or 61.71(a)(16), as applicable, and the commission shall:
 - Suspend the license or permit for no less than seven days for a first violation;
 - Suspend the license or permit for no less than 14 days for a second violation;

TABC Rule 35.6



- Suspend the license or permit for no less than 30 days for a third violation; and
- Cancel the license or permit for any subsequent violation.
- The licensee or permittee does **NOT** have the option to pay a civil penalty in lieu of suspension or cancellation. If a license or permit was cancelled. The Licensee or Permittee is not eligible to apply for, and may not be issued, any TABC-issued original license or permit for a period of **one** years after cancellation

Criminal Penalties



- There are **NO** criminal penalties associated with current CHP Rules.

TABC Enforcement Efforts



- TABC has approximately 998 locations that hold both an alcohol license or permit and a Department of State Health Services (DSHS) to sell consumable hemp products.
- October – November 2025: Agents visited every TABC licensed location that also held a DSHS permit for hemp.
 - Agents spoke to permit/license holders and explained the GA regarding the sale of CHPs to minors. A pamphlet was also given to them to share with their employees.

TABC Enforcement Efforts



- December 2025 – January 2026
 - TABC conducted undercover operations targeting locations that were deemed high risk locations. (Schools, Complaints, Prior violations).
 - Statistics:
 - Locations Educated: 898
 - Undercover Operations: 217
 - Violations Found: 10
 - Compliance Rate: 95%

TABC Enforcement Efforts



- MOU has been executed between TABC and DSHS.
 - Allows TABC to enforce DSHS Rules and Regulations
 - TABC will now start conducting inspections as well undercover operations at DSHS permitted locations.
 - TABC will continue with age-gating violations as well as other common DSHS violations. DSHS will be providing education to TABC Enforcement personnel.
 - TABC will prosecute cases filed at alcohol licensed locations.
 - DSHS will prosecute cases filed at DSHS licensed locations.