

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 51. EMERGENCY RULES

16 TAC §51.1, §51.2

Consistent with Executive Order GA-56 (Sept. 10, 2025), the Texas Alcoholic Beverage Commission (TABC) adopts, on an emergency basis, new Chapter 51, relating to Emergency Rules; new rule 16 TAC §51.1, relating to Prohibited Sales of Consumable Hemp Products to Minors; and new rule 16 TAC §51.2, relating to Mandatory Age Verification for Consumable Hemp Product Sales. The emergency rules are effective September 23, 2025. This emergency adoption is necessary to help prevent minors from accessing and using consumable hemp products (CHP) that will negatively impact the minors' health, which in turn negatively impacts the general welfare and public safety.

REASONED JUSTIFICATION. TABC is generally tasked with regulating every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages. Tex. Alco. Bev. Code §5.31. But the agency is also directed to "supervise and regulate licensees and permittees and their places of business in matters affecting the public." *Id.* §5.33. And that "authority is not limited to matters specifically mentioned in" the Alcoholic Beverage Code. *Id.* TABC must also ensure that the place and manner in which a permittee or licensee conducts its business is consistent with the general welfare, health, peace, morals, and safety of the people and the public sense of decency. *Id.* §§11.61(b)(7), 61.71(a)(16). It is under these provisions that TABC acts now. See Executive Order GA-56 ("Whereas, unrestricted sales of such substances to minors by state licensed retailers imperils 'the general welfare, health, peace, morals, and safety of the people' and 'the public sense of decency[.]'").

CHP is defined by the Department of State Health Services (DSHS) as "Any product processed or manufactured for consumption that contains hemp, including food, a drug, a device, and a cosmetic, as those terms are defined by Texas Health and Safety Code §431.002, 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 (GRAS) by the FDA." 25 TAC §300.101(8). CHP retailers must generally be registered with DSHS. Tex. Health & Safety Code §443.2025. TABC has learned that many of its licensed alcoholic beverage businesses engage in the retail sale of CHPs of varying types and potency, and many of those businesses allow minors to purchase those products. Additionally, consumer delivery and carrier permit holders also deliver CHPs to ultimate consumers who are minors. As explained below, TABC believes that businesses providing CHPs

to minors are operating in a manner that is inconsistent with the general welfare, health, peace, morals, and safety of the people and the public sense of decency. To combat this conduct, TABC adopts these emergency rules to: (1) prohibit a TABC licensee or permittee from selling, offering for sale, serving, or delivering CHPs to a person younger than 21 years of age; and (2) require a TABC licensee or permittee to check the identification of any person wanting to purchase CHPs to confirm their age.

Under the emergency rules, a license or permit holder will generally be held accountable if an employee or agent sells, offers to sell, serves, or delivers CHPs to a minor or fails to check the identification of anyone purchasing CHPs. However, under emergency rule §51.1(d), TABC will not hold a license or permit holder accountable for selling, offering to sell, serving, or delivering CHPs to a minor if the minor presents an apparently valid identification that complies with §51.2(a), the permittee or licensee inspects the identification as provided by §51.2(b), and the permittee or licensee reasonably concludes that the purchaser or recipient is at least 21 years of age.

A violation of either emergency rule will result in the cancellation of the holder's TABC permit or license. The license or permit holder will not be allowed to serve a suspension or pay a civil fine in lieu of the license or permit cancellation. TABC recognizes that cancellation of a license or permit is a severe sanction, but the agency believes a significant sanction is warranted in order to effectively prevent CHP sales to minors.

An emergency rule is necessary

Pursuant to Government Code §2001.034 and §2001.036(a)(2), the new rules are adopted on an emergency basis and with an expedited effective date because an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice.

Consumable products derived from the cannabis plant, whether classified as marijuana or hemp, contain substances called cannabinoids, "which are known to exhibit a range of psychological and physiological effects." Congressional Research Service, R44742, *Defining Hemp: A Fact Sheet*, p.6 (March 22, 2019) (citing Clarke and Merlin, *Cannabis: Evolution and Ethnobotany*, p.255). Studies indicate these effects can be harmful for underdeveloped brains possessed by adolescents, with possible protracted effects on a young user's neural systems. See Yasmin L. Hurd et al., *Cannabis and the Developing Brain: Insights Into Its Long-Lasting Effects*, 39 J. NEUROSCIENCE 8250 (2019).

Delta-8 tetrahydrocannabinol, also known as delta-8 THC, is a psychoactive cannabinoid found in many of the CHPs sold in Texas. CHPs with delta-8 THC have not been evaluated or approved by the U.S. Food and Drug Administration (FDA) for safe use by minors. See FDA Consumer Update (May 4, 2022), available at <https://www.fda.gov/consumers/con->

sumer-updates/5-things-know-about-delta-8-tetrahydro-cannabinol-delta-8-thc.

The harms associated with cannabis/THC use by minors are well documented:

- "THC use, particularly among youth, is associated with an increased risk of psychosis, suicide attempts, and self-harm, with risks heightened in individuals with co-occurring mental health conditions such as depression." Testimony by Lindy McGee, MD, on behalf of the Texas Medical Association and Texas Pediatric Society, before the Senate State Affairs Committee (July 22, 2025), (citing *Cannabis Use Disorder, Suicide Attempts, and Self-Harm Among Adolescents: A national inpatient study across the United States*, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10581466/> and *When Cannabis Use Goes Wrong: Mental Health Side Effects of Cannabis Use That Present to Emergency Services*, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC7917124/>).

- "The association between cannabis and schizophrenia is stronger in people who start using cannabis at an earlier age and use cannabis more frequently." Centers for Disease Control and Prevention, Cannabis and Teens Webpage (February 15, 2024).

- "The teen brain is actively developing and continues to develop until around age 25. Cannabis use during adolescence and young adulthood may harm the developing brain." *Id.* (citing National Academies of Sciences Engineering and Medicine. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press (2017) and Batala A, Bhattacharyya S, Yücel M, et al. *Structural and functional imaging studies in chronic cannabis users: a systematic review of adolescent and adult findings*. Plos One (2013)).

- "Compared with teens who do not use cannabis, teens who use cannabis are more likely to quit high school or not get a college degree." *Id.*

The credible sources cited above clearly demonstrate the potential dangers CHPs pose to minors. Certain TABC-licensed establishments currently provide minors easy access to CHPs, which ultimately imperils those minors' health and the public's safety and welfare. Immediate action is needed to block (or at least reduce) minors' access to CHPs, as Governor Abbott noted in his executive order. Any further delays in enacting these rules would increase the likelihood of harm to Texas minors and the public. As such, TABC believes adopting these rules on an emergency basis is warranted under Government Code §2001.034.

While the emergency rules will go into effect immediately, TABC will not begin to enforce the rules until October 1, 2025. TABC will take this extra time to notify affected businesses of the new restrictions and requirements in these rules.

Future rulemaking

Under Government Code §2001.034, this emergency rule may not be in effect for longer than 180 days total. TABC intends to propose these or similar rules under the normal rulemaking process and will consider any additional action necessary in the event unforeseen issues arise with the adopted sections. Future rulemaking may also provide additional guidance.

STATUTORY AUTHORITY. The new rules are adopted on an emergency basis, effective on September 23, 2025, under Alcoholic Beverage Code §§5.31 and 5.33; and Government

Code §§2001.034 and 2001.036(a)(2). Alcoholic Beverage Code §5.31 provides that "the commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code," and further states that "it may prescribe and publish rules necessary to carry out the provisions of this code." Alcoholic Beverage Code §5.33 provides that "the commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public." And that "this authority is not limited to matters specifically mentioned in [the] code." Government Code §2001.034 provides that a state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice and the agency states in writing the reasons for its finding. Government Code §2001.036(a)(2) provides that if a state agency finds that an expedited effective date is necessary because of imminent peril to the public health, safety, or welfare, and subject to applicable constitutional or statutory provisions, a rule is effective immediately on filing with the secretary of state, or on a stated date less than 20 days after the filing date.

§51.1. Prohibited Sales of Consumable Hemp Products to Minors.

(a) Definitions. In this chapter:

(1) "Consumable hemp product" has the meaning assigned by 25 TAC §300.101 or a successor rule adopted by the Department of State Health Services;

(2) "Licensee" and "permittee" have the meaning assigned by Alcoholic Beverage Code §1.04; and

(3) "Minor" means a person under 21 years of age.

(b) 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.

(c) Notwithstanding Chapter 34 of this title, the commission shall cancel the license or permit of a licensee or permittee that violates subsection (b). The licensee or permittee does not have the option to serve a suspension or pay a civil fine in lieu of cancellation.

(d) A licensee or permittee that sells, offers to sell, serves, or delivers a consumable hemp product to a minor does not violate subsection (b) if the minor falsely claims to be 21 years of age or older, the permittee or licensee otherwise complies with §51.2, and the permittee or licensee reasonably believes the minor is actually 21 years of age or older.

§51.2. Mandatory Age Verification for Consumable Hemp Product Sales.

(a) 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.

(b) Before completing the sale, service, or delivery of a consumable hemp product to an ultimate consumer, a licensee or permittee shall verify that the purchaser or recipient is 21 years of age or older by carefully inspecting the provided proof of identification.

(c) Notwithstanding Chapter 34 of this title, 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 cancel the license or permit. The licensee or permittee does not have the option to serve a suspension or pay a civil fine in lieu of cancellation.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 23, 2025.

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