

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 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 300. MANUFACTURE, DISTRIBUTION, AND RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts on an emergency basis in Title 25 Texas Administrative Code, Chapter 300, Manufacture, Distribution, and Retail Sale of Consumable Hemp Products, an amendment to §300.101 and new §300.701 and §300.702, concerning emergency rules in response to Executive Order GA-56 in order to prohibit the sale of consumable hemp products to children under the age of 21. As authorized by Texas Government Code §2001.034, the executive commissioner may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to implement the Governor's Executive Order GA-56. In this Executive Order, the Governor directed DSHS to immediately establish rules prohibiting the sale of hemp-derived products to children under the age of 21 and requiring verification of the purchaser's age with government issued identification.

Pursuant to Government Code §2001.034 and §2001.036(a)(2), the amendment and new sections 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 consumable hemp products (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/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-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 Batalla 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.*

DSHS accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of these rules.

To protect minors and the public health, safety, and welfare of the state, the executive commissioner is adopting emergency rules. The adoption amends §300.101 to add a definition for "minor" and adds §§300.701-702 to prohibit the sale of CHPs to minors.

SUBCHAPTER A. GENERAL PROVISIONS

25 TAC §300.101

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034, Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code §12.001. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §524.0151 provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies. Texas Government Code §524.0005 provides the Executive Commissioner of HHSC with broad rulemaking authority. Texas Health and Safety Code §1001.075 authorizes the Executive Commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS. Texas Health and Safety Code §12.001 states that the Executive Commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens and authorizes the Executive Commissioner to adopt rules for the performance of each legal duty imposed on the Executive Commissioner or DSHS. Texas Health and Safety Code, Chapter 431, and §443.051, states that the Executive Commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders.

The amendment implements Texas Government Code §2001.034, Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code §431.241, §443.051, and §443.002.

§300.101. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless context clearly indicates otherwise:

(1) **Acceptable hemp THC level**--A delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3 percent or less.

(2) **Accredited laboratory**--A laboratory, including at an institution of higher education, accredited in accordance with the International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard.

(3) **Act**--House Bill 1325, 86th Legislature, Regular Session, 2019, relating to the production and regulation of hemp in Texas, codified in Texas Health and Safety Code, Chapter 443.

(4) **Analyte**--A chemical, compound, element, bacteria, yeast, fungus, mold, or toxin identified and measured by accredited laboratory analysis.

(5) **Approved hemp source**--Hemp and hemp products grown for human use and consumption produced under a state or a compatible federal, foreign, or Tribal plan, approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) Chapter 38, Subchapter VII, or Texas Agriculture Code, Chapter 121, or in a manner that is consistent with federal law and the laws of respective foreign jurisdictions.

(6) **Cannabidiol (CBD)**--A phytocannabinoid identified as an extract from cannabis plants.

(7) **Certificate of Analysis (COA)**--An official document released by the accredited laboratory to the manufacturer, processor, distributor, or retailer of consumable hemp products, the public, or department, which contains the concentrations of cannabinoid analytes and other measures approved by the department, to also include data on levels of THC and state whether a sample passed or failed any limits of content analysis.

(8) **Consumable hemp product (CHP)**--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.

(9) **Consumable hemp products license**--A license issued to a person or facility engaged in the act of manufacturing, extracting, processing, or distributing consumable hemp products for human consumption or use.

(10) **Delta-9 tetrahydrocannabinol (THC)**--The primary psychoactive component of cannabis. For the purposes of this chapter, the terms delta-9 tetrahydrocannabinol and THC are interchangeable.

(11) **Department**--Department of State Health Services.

(12) **Distributor**--A person who distributes consumable hemp products for resale, either through a retail outlet owned by that person or through sales to another retailer. A distributor is required to hold a consumable hemp products license.

(13) **Facility**--A place of business engaged in manufacturing, processing, or distributing consumable hemp products subject to the requirements of this chapter and Texas Health and Safety Code, Chapter 431. A facility includes a domestic or foreign facility that is required to register under the Federal Food, Drug, and Cosmetic Act, Section 415 in accordance with the requirements of 21 Code of Federal Regulations Part 1, Subpart H.

(14) **FDA**--The United States Food and Drug Administration or its successor agency.

(15) **Federal Act**--Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq.).

(16) **Hemp**--The plant, *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3 percent or less.

(17) **Independent contractor**--A person or entity contracted to perform work or sales for a registrant.

(18) **License holder**--The person who is legally responsible for the operation as a consumable hemp manufacturer, processor, or distributor, and possesses a valid license.

(19) **Lot number**--A specific quantity of raw or processed hemp product that is uniform and intended to meet specifications for identity, strength, purity, and composition that shall contain the manufacturer's, processor's, or distributor's, number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of consumable hemp products.

(20) Manufacturer--A person who makes, extracts, processes, or distributes consumable hemp product from one or more ingredients, including synthesizing, preparing, treating, modifying or manipulating hemp or hemp crops or ingredients to create a consumable hemp product. For farmers and persons with farm mixed-type facilities, manufacturing and processing does not include activities related to growing, harvesting, packing, or holding raw hemp product.

(21) Measurement of uncertainty--The parameter, associated with the results of an analytical measurement that characterizes the dispersion of the values that could reasonably be attributed to the quantity subjected to testing measurement. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance.

(22) Minor--A person under 21 years of age.

(23) [(22)] Non-consumable hemp processor--A person who intends to process hemp products not for human consumption and is registered with the Texas Department of Agriculture.

(24) [(23)] Non-consumable hemp product--As defined by Texas Agriculture Code, §122.001(8), means a product that contains hemp, other than a consumable hemp product as defined by Texas Health and Safety Code, §443.001. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, construction materials, and plastics derived from hemp.

(25) [(24)] Pathogen--A microorganism of public health significance, including molds, yeasts, *Listeria monocytogenes*, *Campylobacter*, *Salmonella*, *E. coli*, *Yersinia*, or *Staphylococcus*.

(26) [(25)] Person--An individual, business, partnership, corporation, or association.

(27) [(26)] Process--Extraction of a component of hemp, including CBD or another cannabinoid, that is:

- (A) sold as a consumable hemp product;
- (B) offered for sale as a consumable hemp product;
- (C) incorporated into a consumable hemp product; or
- (D) intended to be incorporated into a consumable hemp product.

(28) [(27)] Processor--A person who operates a facility which processes raw agriculture hemp into consumable hemp products for manufacture, distribution, and sale. A hemp processor is required to hold a consumable hemp products license. A person issued a consumable hemp products license, which only engages in the manufacturing, processing, and distribution of consumable hemp products, is not required to hold a license under Texas Health and Safety Code, Chapter 431, Subchapter J.

(29) [(28)] QR code--A quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to product information regarding manufacturer data and accredited laboratory certificates of analysis.

(30) [(29)] Raw hemp--An unprocessed hemp plant, or any part of that plant, in its natural state.

(31) [(30)] Registrant--A person, on the person's own behalf or on behalf of others, who sells consumable hemp products di-

rectly to consumers, and who submits a complete registration form to the department for purposes of registering their place of business to sell consumable hemp products at retail to the public.

(32) [(31)] Reverse distributor--A person registered with the federal Drug Enforcement Agency as a reverse distributor that receives controlled substances from another person or entity for return of the products to the registered manufacturer or to destroy adulterated or impermissible THC products.

(33) [(32)] Smoking--Burning or igniting a consumable hemp product and inhaling the resultant smoke, vapor, or aerosol.

(34) [(33)] Tetrahydrocannabinol (THC)--The primary psychoactive component of the cannabis plant.

(35) [(34)] Texas Department of Agriculture--The state agency responsible for regulation of planting, growing, harvesting, and testing of hemp as a raw agricultural product.

(36) [(35)] Texas.gov--The online registration system for the State of Texas found at <https://www.texas.gov>.

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 October 2, 2025.

TRD-202503549

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Effective date: October 2, 2025

Expiration date: January 29, 2026

For further information, please call: (512) 719-3521

SUBCHAPTER G. RESTRICTIONS OF CONSUMABLE HEMP PRODUCT SALES TO MINORS

25 TAC §300.701, §300.702

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034, Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code §12.001. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §524.0151 provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies. Texas Government Code §524.0005 provides the Executive Commissioner of HHSC with broad rulemaking authority. Texas Health and Safety Code §1001.075 authorizes the Executive Commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS. Texas Health and Safety Code §12.001 states that the Executive Commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens and authorizes the Executive Commissioner to adopt rules for the performance of each legal duty imposed on the Executive

Commissioner or DSHS. Texas Health and Safety Code, Chapter 431, and §443.051, states that the Executive Commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders.

The amendment implements Texas Government Code §2001.034, Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code §431.241, §443.051, and §443.002.

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

(a) A person who sells a consumable hemp product (CHP) is prohibited from selling or causing a CHP to be sold to a minor.

(b) A person who sells a CHP must verify each purchaser is 21 years of age or older by inspecting a valid proof of government-issued identification before completing the sale of any CHP.

(c) A valid proof of government-issued identification includes a driver's license issued by this state or another state, a passport, or an identification card issued by this state, another state, or the federal government. A valid proof of government-issued identification contains:

(1) a physical description and a photograph that matches the purchaser's appearance; and

(2) the purchaser's date of birth.

§300.702. Enforcement.

(a) The department may pursue penalties and any other enforcement options provided in Texas Health and Safety Code, Chapter 431, Subchapter C, against any person who violates this subchapter.

(b) The department may, after providing an opportunity for a hearing, revoke a consumable hemp license or retail hemp registration after determining the license or registration holder, or one of its employees, sold, served, or delivered a consumable hemp product (CHP) to a minor.

(c) An exception to subsection (b) of this section exists if the minor falsely represents the minor's age to be 21 years of age or older by displaying an apparently valid proof of identification.

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 October 2, 2025.

TRD-202503550

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Effective date: October 2, 2025

Expiration date: January 29, 2026

For further information, please call: (512) 719-3521

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