

## Consumable Cannabis in Texas

	<u>Marijuana (TCUP)</u>	<u>Hemp</u>
Definition	<p>"Low-THC cannabis" means the plant <i>Cannabis sativa</i> L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains not more than <b>one percent by weight of THCs</b>.</p> <p style="background-color: #00FF00; color: black; text-align: center;"><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>"Low-THC cannabis" means the plant <i>Cannabis sativa</i> L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains not more than <b>10 milligrams of THCs in each dosage unit</b>.</p>	<p>"Hemp" means the plant <i>Cannabis sativa</i> 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 THC concentration of not more than 0.3 percent on a dry weight basis</p>
Statutes and Regulations	<p>Health &amp; Safety Code, ch. 487; see <i>also</i> ch. 481</p> <p>Occupation Code, ch. 169</p> <p>37 T.A.C. ch. 12 (DPS)</p> <p>25 T.A.C. §§ 1.61-.65 (DSHS)</p>	<p>Agric. Code chs. 121,122</p> <p>Health &amp; Safety Code, ch. 443, see <i>also</i> chs. 431 &amp; 481</p> <p>25 T.A.C. ch. 300 (DSHS)</p> <p>16 T.A.C. ch. 35 (TABC)</p>

<p>Legality</p>	<p>Federally - illegal as a Sch I Controlled Substance (Trump Administration announced rescheduling to III but of what exactly? and when?)</p> <p>Medical access is permitted in TX only via Texas Compassionate Use Program (TCUP)</p> <p>Decriminalized? <b>No</b> – Individuals not registered with TCUP or in possession of non-TCUP compliant products are subject to criminal charges. Outside TCUP, any amount of a concentrate is a felony.</p>	<p>Federally &amp; State – descheduled if produced in accordance with 2018 Farm Bill</p> <p>Must comply with general food/safety laws in addition to hemp-specific regulations, which allow for both civil and criminal liability.</p> <p>“Hemp” and the tetrahydrocannabinols in hemp exempted from “controlled substance” definition. H&amp;S § 481.002(5)</p>
<p>Regulatory Agencies</p>	<p>Federally: DEA</p> <p>Texas: For TCUP, DPS/Regulatory Services Division</p> <p>Outside TCUP: DPS and local law enforcement</p>	<p>Federally: USDA, FDA, FTC, ...</p> <p>Texas: TDA, DSHS, TABC</p>

<p>Application &amp; Licensing Types, Fees, and Numbers</p>	<p><u>Dispensing Organization License</u>: \$488,520 initial + \$318,511/biannual renewal + \$530 per each Director/Manager/Owner/Employee Registration</p> <p><u>Application Fee</u>: \$7,356</p> <p>*2023 Application Round drew 132 paid applications for a total of \$970,992</p> <p>3 licensed dispensing organizations since 2017</p> <p>Owners with direct control and owners with 10% ownership or more, directors, managers, members, and employees must be disclosed, fingerprinted, cleared, and registered</p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>No changes in fees</p> <p>2023/25 Phase I = 132 applications</p> <p>2025 Phase II = 14 applications</p> <p>Mandated a minimum of 12 new licensees; 9 conditional</p>	<p><b>Cultivation (TDA):</b></p> <p><i>Producer License (TDA)</i>: \$100 (up to 5 facilities)</p> <p><i>Facility Registration (TDA)</i>: \$100/facility</p> <p><i>Lot Permit (TDA)</i>: \$100/lot</p> <p><i>Sampler License (TDA)</i>: \$100</p> <p><i>Research License (TDA)</i>: \$100</p> <p><i>Testing Laboratory License (TDA)</i>: \$250</p> <p><b>Manufacturing Retail (DSHS)</b></p> <p><i>Retail Registration</i>: \$155/year per location</p> <p><i>Manufacturing/Processing/Distribution</i>: \$258/year per location</p> <p>NO LICENSE CAPS</p> <p><b>Proposed Rule:</b></p> <p><i>Retail Registration</i>: \$20,000/year per location</p> <p><i>Manufacturing/Processing/Distribution</i>: \$25,000/year per location</p>
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	<p>licensees named on 12/1/25 &amp; 3 more required by 4/1/26</p> <p>Registered TCUP Physicians: 917 (flat the last three months) [12/25]</p> <p>Registered Patients (all-time; many are not active): 135,470 [12/25]</p>	<p>TDA Producer Licenses: 480 [8/25]</p> <p>DSHS CHP Manuf. Licenses: ~720 [8/25]</p> <p>DSHS Hemp Retail Registrations: ~8400 [8/25]</p>
<p>Testing Requirements</p>	<p>Full panel self-testing required with 2-year record-keeping</p> <p><b>*By DPS practice</b>, samples routinely submitted to DPS for third-party testing (because DPS not testing in-house). Currently sent out of state.</p> <p><b>*By DPS practice</b>, new products are sent to DPS for testing and approval prior to sale.</p> <p>Must test products for THC, CBD, residual solvents, heavy metals, pesticides, and fungicides, fertilizers, and mold.</p> <p>THC Metric: capped at 1% THC by weight,</p>	<p>Full panel, third-party, ISO-certified lab testing required with 3-year record-keeping (pre-harvest samples must be tested by TDA-registered lab)</p> <p>Product test results must be made available to state inspectors upon request.</p> <p><i>Note:</i> Finished products are required to be tested, but not in Texas or at Texas-approved labs</p> <p>Must test for delta-9 THC potency, cannabinoid concentrations, heavy metals, microbial impurities, pesticides, harmful microorganisms, and residual solvents</p> <p>No standardized THC metric</p>

	<p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p><u>THC Metric:</u> 10 mg THC “per dosage unit”</p>	<p><b>Proposed Rule:</b> adds concept of “Total THC” and “Total delta-9 THC” for CHPs using <math>0.887 * THCA + D9</math> formula; <b>requires that COAs reflect no more than 0.3% Total D9-THC</b></p> <p><b>Proposed Rule:</b> significantly more recordkeeping, quality control and batch-tracing requirements</p>
<p>Facility Requirements</p>	<p>General: fire, safety, and building code requirements</p> <p>Specific: requirements for extraction system, staffing, electrical systems, mechanical equipment, hazard safety, sanitation/waste disposal, security &amp; diversion control</p> <p>1000’ buffer from any private or public school or day care center</p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>“Satellite locations” permitted, but DPS must approve each location (it has up to 180 days to do so). 37 T.A.C. 12.35. No TCUP products visible to customer before dispensing.</p> <p>State divided into 11 Health Regions - A licensee cannot open a second satellite location</p>	<p>General: fire, safety, and building code requirements</p> <p>Warehouse licensing requirements, including Current Good Manufacturing Practices (cGMP) in some cases.</p> <p>Buffer from K-12 schools <u>not</u> required, BUT best stay at least 300’ (alcoholic beverage distance) or 1000’ (TCUP) away.</p> <p>No limits on number of stores or locations. Customers can browse and view product before buying.</p>

	in any one region until it has opened at least one satellite location in each of the 11 regions	
Inspections	<p>Routinely &amp; upon complaint/investigation</p> <p>DPS heavily staffed for frequent inspections</p>	<p>Routinely &amp; upon complaint/investigation</p> <p>DSHS has had limited number of inspectors for thousands of locations across the state</p> <p><b>After GA-56 (2025):</b> TABC will eventually be taking over inspections, including for hemp-only stores that are <i>not</i> TABC-licensed.</p>

<p>Available Products</p>	<p>All marijuana-derived cannabinoids + terpenes, THC's not to exceed 1% concentration by weight</p> <p>Tinctures, edibles, supplements, topicals</p> <p>Smoking is banned; other inhalables prohibited <b><i>*by DPS practice</i></b></p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>All phytocannabinoids + terpenes, THC's not to exceed 10 mg "per dosing unit" and 1 gram per package, container, or pulmonary inhalation medical device.</p> <p>Limited to a 90-day supply and four refills per Rx. No mg cap. No cap on number of packages a physician may prescribe in a 90-day period.</p> <p>Permitted product forms – tinctures, edibles, supplements, topicals, suppositories, vaporizers, and inhalers ("pulmonary inhalation")</p>	<p>All hemp-derived cannabinoids + terpenes, delta-9 THC not to exceed 0.3% concentration by dry weight. Unlimited purchasing and package size.</p> <p>Permitted product forms – tinctures, edibles, supplements, topicals, flower, pre-rolls, concentrates, and beverages</p> <p>Sale/distribution of smokeables is permitted so long as smokeable products are not manufactured/processed in Texas. "Smoking" defined as burning or heating (i.e., pre-rolls, vapes).</p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>Hemp/cannabinoid vapes banned statewide as of 9/1/25</p> <p>No container or dosage cap.</p>
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	<p>Pulmonary inhalation allowed after 9/1/25, statutory rulemaking deadline not met and CURT technical modifications delaying rollout so rulemaking and product approval will delay availability.</p>	
<p>Customer Base &amp; Age Restrictions</p>	<p>No age restrictions, but minors need approval of legal guardian</p> <p>Limited number of qualifying conditions determined by law, not a doctor</p> <p>Patients must be Texas residents and receive Texas-licensed doctor diagnosis and dosage recommendation.</p> <p>Produced, manufactured and sold only by TCUP Licensees to patients through very limited customer pickup locations and limited delivery availability</p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b></p> <p>New conditions: chronic pain, traumatic brain injury, Crohn’s disease or other inflammatory bowel diseases, terminal illness, or conditions for which the patient is receiving palliative or hospice care (effective 9/1/25)</p> <p>Patients may only purchase from licensed dispensing organizations; can pick up at</p>	<p>No age restrictions</p> <p>Consumers have freedom to purchase any product for any reason at any dosage available.</p> <p>Sold to consumers at smoke shops, gas stations, hemp stores, health &amp; wellness facilities, grocery stores, other retail locations, and via e-commerce</p> <p>National &amp; international distribution/supply chain</p> <p><b>Emergency Rule:</b></p> <p>21+ only by emergency DSHS and TABC Rules; must verify/inspect ID if customer appears under 40 years old</p> <p><b>Proposed Rule:</b> Substances with “Total Delta-9 THC” levels above 0.3% may not be transported into Texas for further processing (i.e., no cross-border works in progress transportation)</p>

	<p>designated locations or have delivered. Various satellite locations will continue to open statewide over the next few years providing additional dispensing and storage sites.</p> <p>Physician may petition DSHS for new conditions to be added but the Legislature still has to approve (other than additional incurable neurodegenerative diseases, which need only DSHS consent).</p>	
<p>Packaging &amp; Advertising Standards</p>	<p>Rx-specific labeling requirements, including patient/doctor info, dispensary info, dosage, batch number, potency, pesticides, and required notices</p> <p>Seed-to-Sale Tracking</p> <p>Child-Resistant Packaging</p> <p>No formal restrictions on advertising but DPS oversight <b>*by DPS practice</b></p>	<p>Must include lot number/date and manufacturer name, email &amp; phone number and Certificate of Analysis (COA) of lab results (or URL or QR Code link to the information)</p> <p>No Seed-to-Sale Tracking or other legally required ability to trace back problem products</p> <p>No child-resistant packaging requirement</p> <p>No restrictions on where products can be advertised</p> <p><b><u>Proposed Rule:</u></b> tamper evident, child-resistant, and resealable; 5 specific warnings (keep away from kids; drug test failure risk; psychoactivity risk; pregnant/nursing consult doctor; no FDA approval)</p>

		<p><b>Proposed Rule:</b> URL (not QR) for COA</p> <p><b>Proposed Rule:</b> No imagery/packaging that is attractive to children, mimics trademarks, includes images of celebrity,</p> <p><b>Proposed Rule:</b> No misleading packaging (leads consumers to believe <u>does not</u> contain hemp-derived cannabinoids or is intended for medical use)</p> <p><b>Proposed Rule:</b> required packaging/labeling quality controls</p>
Taxes	Sales tax of 6.25% to 8.25% depending on local jurisdiction, and application of Internal Revenue Code Section 280E (cannot deduct costs of goods sold – results in federal taxes of ~70%; could change with rescheduling).	Sales tax of 6.25% to 8.25% depending on local jurisdiction but no 280E issues
Legally forced Business model	<p>Vertically integrated license but <b>*by DPS practice limited to a single location with very limited pickup locations and no overnight storage allowed</b></p> <p><b>*By DPS practice</b>, licensees and certain participating physicians may <u>not</u> participate in the hemp market</p> <p><b>After 89<sup>th</sup> Legislative Session (2025):</b> Licensees may open</p>	<p>Multiple Licensing/Registration Options: Producer, Processor, Research, Sampler/Handler, Testing Lab (for producers), Manufacturer, Distributor, Retail</p> <p>Licensees may participate in other businesses</p>

	<p>satellite locations across the state in a geographically balanced manner for dispensing/storage; DPS approved existing licensees' temporary dispensing site (TDS) locations for conversion to satellites</p>	
<p>Patient &amp; Consumer Legal Protections</p>	<p>Parental protections: providing THC to child pursuant to TCUP cannot be used as grounds to terminate parental rights, or to remove a child from the parent's custody. Dept of Family and Protective Services cannot take a child from a TCUP-registered parent who tests positive for THC unless the agency can prove the cannabis use significantly impaired the child's development. Tex. Fam. Code §161.001(c) and §262.116(a).</p> <p>Probationers: no standard state policy. Registered TCUP patients may — and do — face additional sanctions if THC is detected on a drug screen.</p>	<p>No parental or employment protections.</p> <p>No protections for probationers.</p> <p>Use of products containing no or trace amounts of THC may still result in a drug screen that is positive for THC.</p> <p>No affirmative defense for consumers purchasing store-bought products they believe to be hemp.</p> <p>Inconsistent statewide law enforcement training on hemp creates a substantial risk of uneven and incorrect enforcement.</p>

Developed by **Andrea Steel**, The Banks Law Firm, **Katharine Harris, Ph.D.**, Fellow in Drug Policy at Rice University's Baker Institute for Public Policy, and **Susan Hays**, Law Office of Susan Hays, P.C., for a presentation on **State Cannabis Regulation, Enforcement, and Accountability** at the 2024 **Texas Cannabis Policy Conference**. Updated by Steel, Harris, and Hays after the 2025 Regular Session, and again by Steel, Hays, and **Chelsie Spencer**, Ritter Spencer Cheng PLLC, for the 2026 Cannabis Policy Conference. The information in this chart is not intended to nor does it constitute legal advice. This chart summarizes both the law as written and key agency practices where relevant.