



FOUNDATION  
— FOR —  
INFORMED  
TEXAS

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Thursday, October 4th, 2019

Department of State Health Services, MC 1987  
8407 Wall Street  
Austin, Texas, 78754

RE: Implementation of House Bill 1325, 86th Legislature, Regular Session, 2019, specifically Health & Safety Code Chapter 443, relating to relating consumable hemp products; Public Hearing; Request for Comments

To whom it may concern;

There exists a rapidly growing consumer interest in the use of hemp CBD-infused products. A 2019 Harris poll of over 2,000 Americans found that 86 percent of respondents are familiar with CBD (Cannabidiol), and just under ten percent say that they consume it “regularly” – typically for purposes of relaxation, anxiety relief, or improved sleep.<sup>1</sup> Domestic retail sales of CBD products now total over \$1 billion annually and are expected to surpass \$16 billion by 2026.<sup>2</sup> We already see many CBD products available for purchase in many stores across Texas.

Increasing market demand has drawn companies to fulfill this market need but there is an absence of regulatory guidance. To date, these commercially available products are not subject to mandatory lab testing to affirm either CBD potency, the absence of adulterants or the presence of pesticides. Consequently, independent testing of CBD-infused products often reveals inconsistencies between the percentage of CBD advertised on the label and the amount actually contained in the product (e.g., here<sup>3</sup>, here<sup>4</sup>, here<sup>5</sup>, here<sup>6</sup>, and here<sup>7</sup>.) Other product’s tests have revealed the presence of THC (Tetrahydrocannabinol)<sup>8</sup> above the .3% allowance, which may put consumers in legal jeopardy – such as arrest should THC exceed .3% or the loss of employment due to a drug test failure for the presence of THC. Still other products have been identified to contain unwanted and potentially dangerous adulterants – such as 5F-ADB (aka

<sup>1</sup> <https://qz.com/1590765/survey-shows-americans-use-cbd-to-treat-anxiety-and-stress/>

<sup>2</sup> <https://finance.yahoo.com/news/cannabidiol-cbd-market-reach-usd-155251794.html>

<sup>3</sup> <https://whdh.com/7-investigates/hank-investigates/7-investigates-testing-cbd-label-claim/>

<sup>4</sup> <https://www.nbcnewyork.com/news/local/CBD-Products-Tested-505762921.html>

<sup>5</sup> [https://www.kctv5.com/news/cbd-are-you-getting-what-you-paid-for/article\\_1d20a1b8-2661-11e9-8d77-bbf2262f4aa5.html](https://www.kctv5.com/news/cbd-are-you-getting-what-you-paid-for/article_1d20a1b8-2661-11e9-8d77-bbf2262f4aa5.html)

<sup>6</sup> <https://www.nbcmiami.com/investigations/505335101.html>

<sup>7</sup> <https://www.consumerlab.com/reviews/cbd-oil-hemp-review/cbd-oil/>

<sup>8</sup> [Bonn-Miller et al., 2017. Labeling accuracy of cannabidiol extracts sold online. JAMA: 1708-1709.](#) See also: [Pavlovic et al., 2018. Quality traits of ‘cannabidiol oils’: cannabinoids content, terpene fingerprint and oxidation stability of European commercially available preparations. Molecules: 1230.](#)

‘Spice’) or dextromethorphan (DXM)<sup>9</sup> – as well as heavy metals and solvents.<sup>10</sup> Such adulterants were present in products tested by the Houston Forensic Science Center.<sup>11</sup>

For years, producers of these products have operated in a grey area of the law — manufacturing products of variable and sometimes questionable quality and safety. The implications for adulterants is so important to consumer health to remain unregulated and DSHS has the opportunity to craft benchmark safety and quality standards for hemp-derived CBD products in order to increase consumer satisfaction and confidence as this industry transitions and matures into a legal marketplace. By creating reasonable regulations and standards of practice, currently active businesses can become compliant, if they are not already.

Regulation should:

- Establish standards governing the extraction methods and recommending good manufacturing practices which address solvents, pesticides, and heavy metals.
- Require that commercial products be tested for CBD content, as well as for the presence of other cannabinoids (e.g. THC, CBN, CBG) and terpenes, and labeled appropriately with QR codes that allow customers to view the official lab results and their certificate of analysis (COA).
- Ensure that products are free of contaminants, microbes, pesticides and heavy metals. The inclusion of any additional chemical compounds, solvents or supplements (e.g., vitamin E, melatonin<sup>22</sup>) must be included on the product’s label. Companies who provide products at retail who do not meet these standards, or whose products are determined to be mislabeled, ought to face penalties.

Consumer protections are extremely important. While we do not want regulations to be overly burdensome for businesses, as this will raise their costs and therefore the cost of the products to consumers, it is imperative that we create some basic regulations/standards to protect the health of customers and the integrity of the product.

With Regards,

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<sup>9</sup> Poklis et al. 2019. *The unexpected identification of the cannabimimetic, 5F-ADB, and dextromethorphan in commercially available cannabidiol e-liquids.* Forensic Science International: e25-3-27.

<sup>10</sup> <https://www.nbcnewyork.com/news/local/CBD-Products-Tested-505762921.html>

<sup>11</sup> <https://www.sacurrent.com/sanantonio/investigation-finds-some-texas-cbd-samples-spiked-with-synthetic-marijuana/Content?oid=21995204>

<sup>12</sup> Janet Burns. 2018. "Tests of CBD oils reveal three surprise chemicals, one big problem."