

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00463-CV

**Texas Department of State Health Services and John Hellerstedt, in his Official Capacity as
Commissioner of the Texas Department of State Health Services, Appellants**

v.

**Crown Distributing LLC; America Juice Co. LLC; Custom Botanical Dispensary, LLC;
and 1937 Apothecary, LLC, Appellees**

**FROM THE 345TH DISTRICT COURT OF TRAVIS COUNTY,
NO. D-1-GN-20-004053, THE HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING**

ORDER

PER CURIAM

Appellees have filed an emergency motion for Rule 29.3 temporary relief, seeking reinstatement of the trial court’s order granting their application for a temporary injunction and enjoining appellants from enforcing Rule 300.104. *See* 25 Tex. Admin. Code § 300.104 (2020) (Dep’t of State Health Servs., Manufacture, Processing, Distribution, and Retail Sale of Hemp Products for Smoking) (“The manufacture, processing, distribution, or retail sale of consumable hemp products for smoking is prohibited.”). We requested a response and issued a temporary order granting the relief while we considered the motion and response. *See Texas Dep’t of State Health Servs. v. Crown Distrib. LLC*, No. 03-20-00463-CV, 2020 WL 5778128, at *1 (Tex. App.—Austin Sept. 23, 2020, order) (per curiam).

For the reasons stated in this Court’s opinion in this case, *see Texas Dep’t of State Health Servs. v. Crown Distrib. LLC*, No. 03-20-00463-CV, 2021 WL _____, at *1 (Tex. App.—Austin Aug. 5, 2021, no pet. h.) (mem. op.), we exercise our discretion under Rule 29.3 and grant appellees’ Rule 29.3 motion in part and deny it in part, *see* Tex. R. App. P. 29.3. We temporarily enjoin appellants from enforcing Rule 300.104’s prohibitions against distribution or retail sale of consumable hemp products for smoking until disposition of the appeal. *See id.* R. 18 (“The appellate court’s judgment on an appeal from an interlocutory order takes effect when the mandate is issued.”).

It is ordered on August 5, 2021.

Before Justices Goodwin, Triana, and Kelly