

Hemp Firms Sue Texas Over Rules They Say Rewrite Law

Texas Hemp Industry Files Sweeping Lawsuit Alleging State Agencies Overstepped Authority and “Rewrote the Law” on THC Regulations

The legal battle over intoxicating hemp products in Texas has intensified, as major industry groups and businesses filed a 330-page lawsuit on April 7 in Travis County District Court challenging new state regulations that they argue fundamentally alter the legal definition of hemp.

The complaint, brought by the Texas Hemp Business Council (THBC), Hemp Industry Farmers of America (HIFA), and a coalition of hemp manufacturers and retailers, claims that state agencies have exceeded their authority by adopting rules that disrupt the marketplace for smokable THCA flower and other hemp-derived products.

At the center of the dispute is whether regulatory agencies can effectively reshape cannabis policy after lawmakers declined to do so through legislation.

New Rules Shift THC Testing Standards and Threaten Legal Status of Popular Hemp Products Across the State

The controversy stems from new rules adopted by the Texas Department of State Health Services (DSHS) and the Texas Health and Human Services Commission (HHSC), which took effect on March 31.

These rules change how THC levels are measured in hemp products. Previously, Texas law followed the federal standard established in 2019, defining hemp as cannabis containing no more than 0.3% delta-9 THC.

However, the updated regulations introduce a “total THC” standard, which includes THCA—the non-intoxicating precursor to THC that converts into psychoactive THC when heated through processes such as smoking.

This shift relies on post-decarboxylation testing, a method that measures the total potential THC content after conversion. Industry stakeholders argue that this effectively reclassifies many hemp-derived products—particularly smokable flower and pre-rolls—as illegal, even if they previously complied with the law.

The change comes amid growing debate among policymakers and regulators over whether high-THCA hemp products are effectively marijuana products operating under a legal loophole.

Industry Groups Argue Agencies Are Undermining Legislative Intent After Lawmakers Failed to Act

Plaintiffs in the lawsuit argue that the new rules directly conflict with existing state law and override decisions made by lawmakers.

The dispute traces back to legislative efforts in 2025, when the Texas Legislature and Greg Abbott, the governor of Texas, were unable to reach agreement on how to regulate or restrict intoxicating hemp products. As a result, no new statutory changes were enacted, leaving the existing framework in place.

According to the plaintiffs, this legislative inaction is significant.

The lawsuit asks the court to grant a temporary restraining order and injunctive relief, effectively blocking enforcement of the new rules while the case proceeds.

Lawsuit Also Challenges Transport Restrictions, Fee Increases, and Penalty Structures Imposed by New Regulations

Beyond THC testing standards, the complaint raises concerns about several additional provisions included in the new regulatory framework.

The plaintiffs argue that the rules:

- Restrict interstate commerce by prohibiting the transport of hemp plants and materials into Texas for processing
- Impose steep fee increases, raising manufacturer license fees from \$250 to \$10,000 per facility and retail registration fees from \$150 to \$5,000 per location
- Introduce escalating daily penalties that they claim undermine due process protections and expose businesses to excessive enforcement risks

Brian Swensen, executive director of the Hemp Industry Farmers of America, said these changes could have severe consequences for businesses that have operated in compliance with existing law.

“Texas farmers and processors built their businesses around the law as written,” Swensen said. “When agencies cut off the farm-to-market pipeline without legislative approval, it puts entire operations at risk.”

Some Consumer Protection Measures Remain Unchallenged and Highlight Areas of Industry Consensus

Despite the broad scope of the lawsuit, the plaintiffs emphasized that they are not opposing all aspects of the new regulations.

In particular, they support measures related to:

- Age restrictions, prohibiting individuals under 21 from purchasing consumable hemp products
- Child-resistant packaging standards
- Enhanced labeling requirements

These provisions align with an executive order issued by Governor Abbott in September aimed at reducing youth access to hemp-derived products.

The lawsuit explicitly acknowledges that such rules fall within the authority of state agencies and are consistent with existing statutes.

“Plaintiffs do not challenge the new rules enacting age-verification requirements and related consumer protections,” the complaint states, emphasizing that the dispute centers on regulations that exceed statutory limits.

Legal Arguments Focus on Separation of Powers and Limits of Administrative Authority in Texas

At the heart of the case is a broader constitutional question: Can state agencies effectively rewrite laws through regulation when the Legislature has chosen not to act?

The plaintiffs argue that the answer is no.

Attorney David Sergi, co-counsel in the case, reinforced this argument, framing the issue as a fundamental principle of governance.

The complaint contends that the March 31 regulations do not merely interpret existing law but instead replace it with a new regulatory framework, particularly in how THC is defined and measured.

Ongoing Legal Fight Reflects Broader National Debate Over Hemp-Derived Cannabinoids and Regulatory Gaps

The lawsuit highlights a growing national tension surrounding hemp-derived cannabinoids, particularly products containing high levels of THCA.

Since the federal legalization of hemp under the 2018 Farm Bill, states have struggled to address intoxicating hemp products that technically comply with federal THC limits before consumption but produce psychoactive effects when used.

Texas is one of several states grappling with this issue, as regulators, lawmakers, and industry participants debate how to balance:

- Consumer safety
- Market stability
- Legal clarity
- Economic opportunity

The outcome of this case could have significant implications not only for Texas but also for other states considering similar regulatory approaches.

Court Decision Could Determine Future of Hemp Industry Operations and Regulatory Authority in Texas

As the case moves forward in Travis County District Court, its outcome could reshape the regulatory landscape for hemp businesses in Texas.

If the court sides with the plaintiffs, it could:

- Reinstate the delta-9 THC standard
- Limit the authority of state agencies to reinterpret cannabis laws
- Provide temporary relief for businesses impacted by the new rules

Conversely, if the regulations are upheld, many hemp products currently on the market could become effectively prohibited, forcing businesses to adapt quickly or exit the market.

For now, the Texas hemp industry remains in a state of uncertainty, awaiting judicial clarity on the balance of power between lawmakers and regulators—and the future legality of a rapidly evolving segment of the cannabis market.

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