

HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE A. FOOD AND DRUG HEALTH REGULATIONS

CHAPTER 443. MANUFACTURE, DISTRIBUTION, AND SALE OF CONSUMABLE
HEMP PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 443.001. DEFINITIONS. In this chapter:

(1) "Consumable hemp product" means food, a drug, a device, or a cosmetic, as those terms are defined by Section 431.002, that contains hemp or one or more hemp-derived cannabinoids, including cannabidiol.

(2) "Department" means the Department of State Health Services.

(3) "Establishment" means each location where a person processes hemp or manufactures a consumable hemp product.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Hemp" has the meaning assigned by Section 121.001, Agriculture Code.

(6) "License" means a consumable hemp product manufacturer's license issued under this chapter.

(7) "License holder" means an individual or business entity holding a license.

(8) "Manufacture" has the meaning assigned by Section 431.002.

(9) "Process" means to extract a component of hemp, including cannabidiol 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.

(10) "QR code" means 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 additional information.

(11) "Smoking" means burning or igniting a substance and inhaling the smoke or heating a substance and inhaling the resulting vapor or aerosol.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.002. APPLICABILITY OF OTHER LAW. Except as provided by Section 431.011(c), Chapter 431 applies to a license holder and a consumable hemp product regulated under this chapter. Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.003. LOCAL REGULATION PROHIBITED. A municipality, county, or other political subdivision of this state may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the processing of hemp or the manufacturing or sale of a consumable hemp product as authorized by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.004. SEVERABILITY. (a) A provision of this chapter or its application to any person or circumstance is invalid if the secretary of the United States Department of Agriculture determines that the provision or application conflicts with 7 U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the state plan submitted under Chapter 121, Agriculture Code.

(b) The invalidity of a provision or application under Subsection (a) does not affect the other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 443.051. RULEMAKING AUTHORITY OF EXECUTIVE COMMISSIONER. The executive commissioner shall adopt rules and procedures necessary to administer and enforce this chapter. Rules and procedures adopted under this section must be consistent with:

(1) an approved state plan submitted to the United States Department of Agriculture under Chapter 121, Agriculture Code; and

(2) 7 U.S.C. Chapter 38, Subchapter VII, and federal regulations adopted under that subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

SUBCHAPTER C. CONSUMABLE HEMP PRODUCT MANUFACTURER LICENSE

Sec. 443.101. LICENSE REQUIRED; EXCEPTIONS. A person may not process hemp or manufacture a consumable hemp product in this state unless the person holds a license under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.102. LICENSE INELIGIBILITY. (a) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:

(1) hold a license under this subchapter; or

(2) be a governing person of an establishment that holds a license under this subchapter.

(b) The department may not issue a license under this subchapter to a person who materially falsifies any information contained in an application submitted to the department under Section 443.103.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.103. APPLICATION; ISSUANCE. An individual or establishment may apply for a license under this subchapter by submitting an application to the department on a form and in the manner prescribed by the department. The application must be accompanied by:

(1) a legal description of each location where the applicant intends to process hemp or manufacture consumable hemp products and the global positioning system coordinates for the perimeter of each location;

(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is processed or consumable hemp products are manufactured to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter;

(3) any fees required by the department to be submitted with the application; and

(4) any other information required by department rule.
Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.104. TERM; RENEWAL. (a) A license is valid for one year and may be renewed as provided by this section.

(b) The department shall renew a license if the license holder:

(1) is not ineligible to hold the license under Section 443.102;

(2) submits to the department any license renewal fee; and

(3) does not owe any outstanding fees to the department.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.105. REVOCATION. The department shall revoke a

license if the license holder is convicted of a felony relating to a controlled substance under federal law or the law of any state.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

SUBCHAPTER D. TESTING OF CONSUMABLE HEMP PRODUCTS

Sec. 443.151. TESTING REQUIRED. (a) A consumable hemp product must be tested as provided by:

- (1) Subsections (b) and (c); or
- (2) Subsection (d).

(b) Before a hemp plant is processed or otherwise used in the manufacture of a consumable hemp product, a sample representing the plant must be tested, as required by the executive commissioner, to determine:

- (1) the concentration of various cannabinoids; and
- (2) the presence or quantity of heavy metals, pesticides, and any other substance prescribed by the department.

(c) Before material extracted from hemp by processing is sold as, offered for sale as, or incorporated into a consumable hemp product, the material must be tested, as required by the executive commissioner, to determine:

- (1) the presence of harmful microorganisms; and
- (2) the presence or quantity of:
 - (A) any residual solvents used in processing, if applicable; and
 - (B) any other substance prescribed by the department.

(d) Except as otherwise provided by Subsection (e), before a consumable hemp product is sold at retail or otherwise introduced into commerce in this state, a sample representing the hemp product must be tested:

- (1) by a laboratory that is accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard to determine the delta-9 tetrahydrocannabinol concentration of the product; and

(2) by an appropriate laboratory to determine that the product does not contain a substance described by Subsection (b) or (c) in a quantity prohibited for purposes of those subsections.

(e) A consumable hemp product is not required to be tested under Subsection (d) if each hemp-derived ingredient of the product:

(1) has been tested in accordance with:

- (A) Subsections (b) and (c); or
- (B) Subsection (d); and

(2) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.152. PROVISIONS RELATED TO TESTING. (a) A consumable hemp product that has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent may not be sold at retail or otherwise introduced into commerce in this state.

(b) A person licensed under Chapter 122, Agriculture Code, shall provide to a license holder who is processing hemp harvested by the person or otherwise using that hemp to manufacture a consumable hemp product the results of a test conducted under that chapter, if available, as proof that the delta-9 tetrahydrocannabinol concentration of the hemp does not exceed 0.3 percent, including for purposes of Section 443.151(b)(1).

(c) A license holder shall make available to a seller of a consumable hemp product processed or manufactured by the license holder the results of testing required by Section 443.151. The results may accompany a shipment to the seller or be made available to the seller electronically. If the results are not able to be made available, the seller may have the testing required under Section 443.151 performed on the product and shall make the results available to a consumer.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

SUBCHAPTER E. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

Sec. 443.201. POSSESSION, TRANSPORTATION, AND SALE OF CONSUMABLE HEMP PRODUCTS. (a) A person may possess, transport, sell, or purchase a consumable hemp product processed or manufactured in compliance with this chapter.

(b) The executive commissioner by rule must provide to a retailer of consumable hemp products fair notice of a potential violation concerning consumable hemp products sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.202. REGULATION OF CERTAIN CANNABINOID OILS. (a) This section does not apply to low-THC cannabis regulated under Chapter 487.

(b) Notwithstanding any other law, a person may not sell, offer for sale, possess, distribute, or transport a cannabinoid oil, including cannabidiol oil, in this state:

(1) if the oil contains any material extracted or derived from the plant *Cannabis sativa* L., other than from hemp produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; and

(2) unless a sample representing the oil has been tested by a laboratory that is accredited by an independent accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard and found to have a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.

(c) The department and the Department of Public Safety shall establish a process for the random testing of cannabinoid oil, including cannabidiol oil, at various retail and other establishments that sell, offer for sale, distribute, or use the oil to ensure that the oil:

(1) does not contain harmful ingredients;

(2) is produced in compliance with 7 U.S.C. Chapter

38, Subchapter VII; and

(3) has a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.2025. REGISTRATION REQUIRED FOR RETAILERS OF CERTAIN PRODUCTS. (a) This section does not apply to low-THC cannabis regulated under Chapter 487.

(b) A person may not sell consumable hemp products containing cannabidiol at retail in this state unless the person registers with the department each location owned, operated, or controlled by the person at which those products are sold. A person is not required to register a location associated with an employee or independent contractor described by Subsection (d).

(c) The department may issue a single registration under Subsection (b) covering multiple locations owned, operated, or controlled by a person.

(d) A person is not required to register with the department under Subsection (b) if the person is:

(1) an employee of a registrant; or

(2) an independent contractor of a registrant who sells the registrant's products at retail.

(e) A registration is valid for one year and may be renewed as prescribed by department rule.

(f) The department by rule may adopt a registration fee schedule that establishes reasonable fee amounts for the registration of:

(1) a single location at which consumable hemp products containing cannabidiol are sold; and

(2) multiple locations at which consumable hemp products containing cannabidiol are sold under a single registration.

(g) The department shall adopt rules to implement and administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.203. DECEPTIVE TRADE PRACTICE. (a) A person who sells, offers for sale, or distributes a cannabinoid oil, including cannabidiol oil, that the person claims is processed or manufactured in compliance with this chapter commits a false, misleading, or deceptive act or practice actionable under Subchapter E, Chapter 17, Business & Commerce Code, if the oil is not processed or manufactured in accordance with this chapter.

(b) A person who sells, offers for sale, or distributes a cannabinoid oil commits a false, misleading, or deceptive act or practice actionable under Subchapter E, Chapter 17, Business & Commerce Code, if the oil:

(1) contains harmful ingredients;

(2) is not produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; or

(3) has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.204. RULES RELATED TO SALE OF CONSUMABLE HEMP PRODUCTS. Rules adopted by the executive commissioner regulating the sale of consumable hemp products must to the extent allowable by federal law reflect the following principles:

(1) hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants;

(2) products containing one or more hemp-derived cannabinoids, such as cannabidiol, intended for ingestion are considered foods, not controlled substances or adulterated products;

(3) consumable hemp products must be packaged and labeled in the manner provided by Section 443.205; and

(4) the processing or manufacturing of a consumable hemp product for smoking is prohibited.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 7, eff. June 10, 2019.

Sec. 443.205. PACKAGING AND LABELING REQUIREMENTS.

(a) Before a consumable hemp product that contains or is marketed as containing more than trace amounts of cannabinoids may be distributed or sold, the product must be labeled in the manner provided by this section with the following information:

- (1) batch identification number;
- (2) batch date;
- (3) product name;
- (4) a uniform resource locator (URL) that provides or links to a certificate of analysis for the product or each hemp-derived ingredient of the product;
- (5) the name of the product's manufacturer; and
- (6) a certification that the delta-9 tetrahydrocannabinol concentration of the product or each hemp-derived ingredient of the product is not more than 0.3 percent.

(b) The label required by Subsection (a) may be in the form of:

- (1) a uniform resource locator (URL) for the manufacturer's Internet website that provides or links to the information required by that subsection; and
- (2) a QR code or other bar code that may be scanned and that leads to the information required by that subsection.

(c) The label required by Subsection (a) must appear on each unit of the product intended for individual retail sale. If that unit includes inner and outer packaging, the label may appear on any of that packaging.

(d) This section does not apply to sterilized seeds incapable of beginning germination.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 7, eff. June 10, 2019.

Sec. 443.206. RETAIL SALE OF OUT-OF-STATE CONSUMABLE HEMP PRODUCTS. Retail sales of consumable hemp products processed or manufactured outside of this state may be made in this state when the products were processed or manufactured in another state or jurisdiction in compliance with:

(1) that state or jurisdiction's plan approved by the United States Department of Agriculture under 7 U.S.C. Section 1639p;

(2) a plan established under 7 U.S.C. Section 1639q if that plan applies to the state or jurisdiction; or

(3) the laws of that state or jurisdiction if the products are tested in accordance with, or in a manner similar to, Section [443.151](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 7, eff. June 10, 2019.

Sec. 443.207. TRANSPORTATION AND EXPORTATION OF CONSUMABLE HEMP PRODUCTS OUT OF STATE. Consumable hemp products may be legally transported across state lines and exported to foreign jurisdictions in a manner that is consistent with federal law and the laws of respective foreign jurisdictions.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 7, eff. June 10, 2019.