

# Texas Politicians Take Aim at Hemp-Derived THC

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On April 11, 2024, Texas Lt. Governor Dan Patrick released his [2024 Interim Legislative Charges](#). This list indicates his goals for the upcoming legislative session, and among his priorities ahead of the 2025 Texas Legislative Session are “further regulat[ing] the sale of Delta 8 and Delta 9” and “stop[ping] retailers who market these products to children.” While Lt. Gov. Patrick did not cite any specific companies or marketing materials that allegedly market hemp or CBD products to children, it is clear he views more regulation of Texas’s burgeoning hemp industry as a legislative priority.

## Overview of Recent U.S. and Texas Hemp Legalization

The Agriculture Improvement Act of 2018 federally legalized hemp in the U.S. for commercial production. The Act permits states to create their own programs to produce, manufacture, and sell hemp but does not

specifically authorize any federal agency to regulate the manufacture, marketing, and sale of products containing hemp-derived cannabinoids (other than delta-9 tetrahydrocannabinol (THC)). In 2019, Texas passed House Bill 1325, the Hemp Farming Act, which permits the production, manufacture, and retail sale of hemp products, including consumable hemp products containing 0.3% or less delta-9 THC.

THC is the primary component within cannabis plants that gives people the sensation of being “high” when cannabis is consumed or smoked. U.S. and Texas law define “hemp” as the plant *Cannabis sativa* L. with a delta-9 THC concentration of 0.3% or less on a dry weight basis and “marijuana” as the plant *Cannabis sativa* L. with a delta-9 THC concentration of more than 0.3% on a dry weight basis. Another common compound found in the cannabis plant is Cannabidiol (CBD), and so it may be derived from both hemp and marijuana (as they are the same plant: *Cannabis sativa* L.). Importantly, CBD alone does not cause a “high,” [according to the U.S. Centers for Disease Control and Prevention](#).

## Federal and Statewide Marijuana Legalization Developments

As of April 2024, 24 states and Washington, DC have legalized adult-use marijuana, and another 14 states have legalized marijuana only for medicinal use. As many as 11 additional states are considering legalizing medicinal and/or adult-use marijuana in 2024. In 2015, Texas legalized a very limited medicinal marijuana program for residents with qualifying medical conditions called the Compassionate Use Act. Since 2019, Texas has seen an explosion in the number of CBD and hemp stores, with many selling products containing hemp-derived cannabinoids across the state following the federal and state legalization of hemp.

Last year, the U.S. Department of Health and Human Services recommended rescheduling marijuana from Schedule I to Schedule III to the U.S. Drug Enforcement Administration (DEA). That recommendation [is now awaiting the DEA’s final determination](#), and the state of Texas supports the rescheduling of marijuana. Since at least 2022, the [Texas Republican Party’s official platform](#) supported Congress rescheduling cannabis from Schedule I to Schedule II.

The U.S. is closer than it has historically ever been to rescheduling marijuana – with the apparent support of the Texas Republican Party – which would have the impact of increasing consumers’ access to the many compounds found in the *Cannabis sativa* L. plant. On the contrary, Texas Lt. Gov. Patrick’s stated priority to further regulate hemp in the state of Texas would have the opposite effect: decreasing consumers’ access to various compounds found in *Cannabis sativa* L.

It is unclear whether Lt. Gov. Patrick’s charge demonstrates a permanent change in both the Texas Republican Party’s prior support for loosening cannabis restrictions and also its general disfavor of government regulation or whether it is meant to be a temporary and specific crackdown on delta-8 and delta-9 as personal political priorities for Lt. Gov. Patrick. It is possible that he supports limited medical marijuana programs in Texas but opposes the non-medical sales of hemp-derived intoxicating substances.

## Marijuana Tourism on the Texas-New Mexico Border

Despite Texas’s general prohibition of marijuana, based on available sales data, it appears that Texans drive enormous economic traffic with border towns in states like [New Mexico](#), where the sale, possession, and

consumption of adult-use marijuana is legal. Sunland, New Mexico, a town just across the border from El Paso, has a population of approximately 17,000 and [reportedly](#) tallied more than \$57 million in sales of adult-use marijuana since legal sales began in 2022. Other New Mexico border towns, such as Hobbs and Las Cruces, have each sold more than \$40 million of marijuana in that same timeframe.

## Texas Marijuana Legalization Developments on the Horizon

Texas's conservative political majority has so far rejected the legalization of a widespread medicinal or adult-use marijuana program, but potential tax revenue and related economic activity, along with shifting political attitudes, may influence future legalization efforts. Additionally, discrepancies between federal and state legal frameworks and their impacts on various industries and business operations create uncertainty for both current and prospective business owners.

Please contact the author or [McGlinchey's Cannabis team](#) if you have questions about Texas's hemp or marijuana laws or your business's compliance with related regulations. We will continue to monitor developments in Texas and share our findings on the Green Leaf Brief.

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