



May 16, 2020

Dr. Rod Moline
Section Director
Texas Department of State Health Service
Mail Code 1987, Texas DSHS, P.O. Box 149347
Austin, Texas 78714-9347

RE: Commentary on Final Rules for Consumable Hemp Products

Dear Dr. Rod Moline,

I'm sharing these comments on behalf of Texas Hemp Growers, which represents 200 hemp industry participants; mostly farmers, processors, manufacturers, retailers, and consumers of hemp products.

We were pleased with your department's willingness to receive feedback on these proposed rules. Thorough regulation of consumable products for purity and efficacy will greatly benefit the hemp industry, and we appreciate your commitment to high standards in processing and manufacturing.

However, we are concerned by Sec. 300.104 -- the smokable hemp product ban -- which will handicap Texas' farmers; disenfranchise processors, manufacturers, distributors and retailers; and deprive consumers of choice.

We strongly disagree with the economic impact statements published in the Texas Register alongside these proposed rules, which suggest there will be no negative impact felt by small businesses and local economies with the adoption of these rules.

The department's conclusion that these rules "will expand economic opportunity" does not add up when you consider that Sec. 300.104 will cause manufacturers to relocate equipment and jobs out-of-state; retailers to eliminate SKUs from shelves; and farmers to find out-of-state buyers.

The following examples illustrate the negative economic impact that is expected to be felt by a few of our members:



Hemp shop runs risk of losing 50% of its revenue

An independently owned Texas hemp dispensary currently relies on the sale of smokable hemp for approximately 50% of its revenue. The proposed retail ban in Sec. 300.104 would revoke his right to sell to consumers. At minimum, this would impact his sales revenue by potentially \$16,000 a month, and at worse, could cripple his business, require a reduction in employees, or even cause him to shut down.

Entrepreneur deprived of creating line of herbal smokes

A small business owner in Texas who manufactures a custom line of apothecary products will be deprived of her plans to produce pre-roll herbal smokes--one-third of which would be hemp flower. Not only does Sec. 300.104 prevent her from creating the described product, the distribution and retail ban further prevents her from manufacturing out-of-state and importing back in for sale.

Manufacturer forced to move equipment out-of-state

A large Texas-based CBD manufacturer and retailer, which has invested in equipment that creates hemp flower pre-rolls, will be forced to relocate their manufacturing operation to Oklahoma. Not only will the business incur major relocation expenses and costly downtime, but jobs will be sacrificed to states with less restrictive markets.

In the interest of accuracy, your impact statements should be updated to reflect the crippling effects this provision will have on the industry and the loss of employment expected within the state.

Unemployment spiked in the month of April from less than three percent to almost 15 percent (USDL-20-0815, Bureau of Labor Statistics). Our country is on the edge of a recession, and our businesses and farmers need every potential advantage to survive. Adoption of Sec. 300.104 is a critical blow to already struggling business owners.

By including "distribution" and "retail sale" into Sec. 300.104, DSHS has overstepped the spirit of the adopted law, which reads: "*the **processing or manufacturing** of a consumable hemp product for smoking is prohibited*" (Title 6, Ch. 443 Health & Safety Code)



Texas Hemp Growers members will experience economic damages with the adoption of Sec. 300.104. We respectfully request the department strike "distribution" and "retail sale" from Sec. 300.104 before the rules take effect.

We acknowledge the adopted state statute provides the department with the ability to prohibit processing and manufacturing of consumable hemp products for smoking. Our goal in the upcoming legislative session is to work with lawmakers to find common ground that will allow for the prohibition to be dropped entirely.

Thank you for considering this matter. We support continued dialog with your office, and wish you well in these difficult and uncertain times for our country.

Respectfully Submitted,
Zachary Maxwell
President
Texas Hemp Growers