

Welcome

We will begin at 10 a.m.

Please submit specific account-related questions or any questions not addressed in this webinar to

hdc.inspection@tn.gov

(615) 837-5070



Hemp-Derived Cannabinoids

Manufacture, Distribution, and Sales in Tennessee

Announcements

- Please note that all participant microphones are currently muted, and videos are disabled to preserve bandwidth and ensure a smooth webinar experience. This will help us avoid any background noise and distractions. Thank you for your understanding and cooperation.
- The chat feature will be enabled later in the presentation for attendees to post questions.
- The slide deck for today's webinar will be emailed to all participants.

Overview

- Introduction
- Timeline
- Statute
- Rules
- Licensing and Youth Access Prevention
- Frequently Asked Questions
- Next Steps

TDA Hemp Section

Hemp
Section



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graph TD; A[Hemp Section] --> B[Rooted Hemp (Growers)]; A --> C[Hemp-Derived Cannabinoids (HDCs)];
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Rooted Hemp
(Growers)

Hemp-Derived
Cannabinoids
(HDCs)

Timeline

- **May 11, 2023**
 - Public Chapter 423 (PC423) signed into law
- **July 1, 2023**
 - Statute effective, including tax requirement
- **January 2024**
 - TDA Hemp Section created
- **June 28, 2024**
 - TDA emergency rules filed and effective
 - 0080-10-.01 and 0080-10-.02
- **July 1, 2024**
 - Statute fully effective
 - Licensing requirement, inspections, and compliance effective



Statute

Statute - Public Chapter 423 (2023)

- Defines Hemp-Derived Cannabinoids (HDCs)
- Age Requirements
- Marketing
- Transporting
- Compliance
- Taxation
- Violations
- Product Standards
- Inspections
- Licensing
- Testing
- Labeling

Jurisdiction

- Tennessee Department of Agriculture (TDA)
- Tennessee Department of Revenue
- State and Local Law Enforcement

What is a Hemp-Derived Cannabinoid (HDC)?

1. A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, **that is derived from hemp in a concentration of more than one-tenth of one percent (0.1 %);**
2. Or a hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of **three-tenths of one percent (0.3%) or less** on a dry weight basis.

Hemp-Derived Cannabinoids

Includes but are not limited to:

- Delta-8 tetrahydrocannabinol
- Delta-10 tetrahydrocannabinol
- Hexahydrocannabinol (**HHC**)
- Tetrahydrocannabiphorol (**THCp**)
- Tetrahydrocannabivarin (**THCv**)
- Tetrahydrocannabinolic acid (**THCa**)

Exclusions

- Cannabichromene (CBC/CBCa/CBCv)
- Cannabicitran (CBT/CBTa)
- Cannabicyclol (CBL/CBLa)
- **Cannabidiol** (CBD/CBDa/CBDv/CBDp)
- Cannabielsoin (CBE/CBEa)
- **Cannabigerol** (CBG/CBGa/CBGv/CBGm)
- **Cannabinol** (CBN/CBNa)
- Cannabivarin (CBV/CBVa)
- Hemp-derived feed products allowed under title 44, chapter 6
- Hemp-derived fiber, grain, or topical products
- A substance that is categorized as a Schedule I controlled substance on or after July 1, 2023, including a substance that may be identified in subdivision

Effective July 1, 2023

- Proof of age requirements at retail *T.C.A. § 43-27-203(b)(1)*
- Under 21 sales restrictions at retail *T.C.A. § 43-27-203(b)(2)-(4)*
- HDC products behind counter at retail *T.C.A. § 43-27-204(b)*
- Sample distribution prohibited on public streets, sidewalks, and parks *T.C.A. § 43-27-203(c)*
- Additional sales tax *T.C.A. § 67-6-232*

Tax Requirement

- 6% sales tax **in addition to** state/local regular sales tax
- Tax applies to the sales price of products containing HDCs when sold in Tennessee
- Taxpayers must file a monthly return with the Department of Revenue and remit payment on or before the 20th day of each month
- Questions
 - www.tn.gov/Revenue
 - revenue.support@tn.gov
 - (615) 253-0600



Effective July 1, 2024

License requirements for retail, manufacturing, and distribution of HDC products *T.C.A. §§ 43-27-203(a)(1); 43-27-206*

- Submit application and pay fee for license, renewable annually (TDA)
- Submit criminal history background check
- Consent to inspection/testing (TDA and TN Revenue)
- Comply with all other parts of the Act regarding retail location, transporting, product packaging/labeling, marketing, etc.

Effective July 1, 2024

- Label requirements for ingredients, allergens, amount of cannabinoid per serving, total hemp-derived cannabinoid per package in milligrams, product net weight, QR code, and expiration date *T.C.A. § 43-27-209(a)(2)*
- Child-resistant safety for HDC products sold at retail *T.C.A. § 43-27-209(a)(1)*
- Label prohibition of imagery appealing to persons under 21 *T.C.A. § 43-27-209(c)*
- Product shape prohibitions *T.C.A. § 43-27-209(d)(2)*

Effective July 1, 2024

- Third party testing and provision of certificates of analysis *T.C.A. § 43-27-207(b)(1), (c)*
- Product label must be consistent with product potency *T.C.A. § 43-27-207(a)(2)*
- Total milligrams limit for hemp-derived cannabinoids per serving *T.C.A. § 43-27-209(d)(1)*



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TDA Rules Update

Rules Update

- Permanent rules for the HDC program are in progress
- 19,000+ comments
- Emergency rules promulgated to meet statutory requirements for an HDC licensing program by July 1
- Emergency rules are effective through December 25, 2024
- We continue to process public comments and promulgate permanent rules

Defines HDC Product

"HDC product" means a product that contains or that is labeled to **contain a hemp-derived cannabinoid** and that is produced, marketed, or otherwise intended to be consumed orally ("**ingestible**"), inhaled ("**inhalable**"), or absorbed through the skin ("**transdermal**"). HDC products also include intermediate products intended for subsequent use as a component in a later finished ingestible, inhalable, or transdermal HDC product.

Tenn. Comp. R. & Regs. 0080-10-01 & 0080-10-02

- Effective July 1, 2024
 - For purposes of enforcement, all statutory requirements under the Act are effective
 - An HDC product license is required per person per location for any person who manufactures or distributes an HDC product in commerce
 - An HDC retail license is required per person per location for any person who offers for sale an HDC product at retail

Tenn. Comp. R. & Regs. 0080-10-01 & 0080-10-02

- **Manufacturing and Distribution**

- All requirements under rules 0080-10-01-.04 through .08 will not be effective prior to **January 1, 2025.**

- **Retail Sale**

- All requirements under rules 0080-10-02-.04 through .06 will not be effective prior to **January 1, 2025.**

The emergency rules provide notice to the HDC industry of some items the department anticipates will be included in the permanent rules so that persons in the HDC industry may have as much advance notice of what future standards are likely to be and may begin business and inventory planning/alignment ahead of the standards' implementation.

Items of Notice

- Labeling except as detailed under statute
Tenn. Comp. R. & Regs. 0080-10-01-.06
- Product testing except as to required potency testing
Tenn. Comp. R. & Regs. 0080-10-01-.05
- Transportation except as detailed under statute
Tenn. Comp. R. & Regs. 0080-10-01-.07
- Recordkeeping requirements except as detailed under statute
Tenn. Comp. R. & Regs. 0080-10-01-.08

Engagement

- The department will be engaging with HDC suppliers and retailers through the following activities:
 - Inspections
 - Sampling and Testing
 - Outreach and Education



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Licensing and Youth Access Prevention

Licensing

- A licensing program took effect **July 1, 2024**, for the department to accept applications for licensure of retailers and suppliers of HDC products
- Licensing information and application form available at <https://www.tn.gov/agriculture/businesses/hemp/hemp-derived-cannabinoids.html>



Types of Licenses

Hemp-Derived Cannabinoid Supplier License - \$500

Supplier: A person or entity that manufactures HDCs or sells products containing HDCs to retailers.

To **manufacture** means to compound, blend, extract, infuse, cook, or otherwise make or prepare products containing an HDC, including the processes of extraction, infusion, packaging, repackaging, labeling, and relabeling of products containing an HDC.

*Note: HDC Suppliers that are manufacturing and/or distributing ingestible HDCs may require additional licensing from TDA's food safety team.

Types of Licenses

Hemp-Derived Cannabinoid Retailer License - \$250

Retailer: A person or entity that sells products containing an HDC for consumption and not for resale. Also referred to as direct-to-consumer sales.

- Brick and mortar locations
- May include temporary locations such as fairs, flea markets, and farmers markets
- Online sales originating from Tennessee

Licensing Process

- Submit Online Application
 - TDA Review
- Upload Required Documents
 - TDA Review
- Pay License Fee
 - Digital Permit Sent By Email

Required Documents – Supplier License

1. Proof of registration in state of incorporation for any applicant that is a formalized business entity
 - Articles of Organization
 - Articles of Incorporation
 - Certificate of Existence
2. Proof of registration with the Tennessee Department of Revenue
3. Nationwide criminal background check facilitated through the TBI for the person **identified as legally responsible** for applicant's operations

Required Documents – Retailer License

1. Proof of registration in state of incorporation for any applicant that is a formalized business entity
 - Articles of Organization
 - Articles of Incorporation
 - Certificate of Existence
2. Tennessee Department of Revenue Sales and Use Tax Certificate of Registration
3. Nationwide criminal background check facilitated through the TBI for the **person identified as legally responsible** for applicant's operations
4. Identification of nearest school serving any grades K-12 and the distance from that school to the location to be licensed, **in feet measured as a straight line along the shortest route**

Youth Access Prevention

It is an offense for a person to knowingly sell or distribute a product containing an HDC to a person who is **under twenty-one (21) years of age** or to purchase a product containing an HDC on behalf of a person who is under twenty-one (21) years of age

T.C.A § 43-27-203(b)(2)

Youth Access Prevention

- It is an offense to knowingly sell or distribute a product containing an HDC **without having first obtained proof of age from the purchaser or recipient** *T.C.A § 43-27-203(b)(1)*
- Sales to 21+
 - ID checks for **every sale, every time**

Youth Access Prevention

- A product containing an HDC must be maintained **behind the counter** of a retail establishment in an area inaccessible to a customer *T.C.A § 43-27-204(b)*

A **counter** is a physical barrier that necessitates the seller's assistance in order to access product prior to its sale

Tenn. Comp. R. & Regs. 0080-10-02.02(2)(f)

- This includes locked cabinetry, display cases, and/or coolers that are under the control of the seller

Youth Access Prevention

A retail location that is within 1,000 feet of a K-12 school shall not sell products containing an HDC.

EXCEPTION:

Applicant may provide acceptable documentation that establishes that products containing an HDC were being offered for sale at retail at such location on December 31, 2023.





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Frequently Asked Questions

Is a license required to sell CBD?

Possibly. If a business is producing and/or selling products that meet the definition of HDC, the producer/seller is required to have an HDC license with TDA.

- A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a **concentration of more than one-tenth of one percent (0.1%)** *T.C.A § 43-27-202(2)(A)(i)*
- Or a hemp-derived product containing delta-9 tetrahydrocannabinol in a **concentration of three-tenths of one percent (0.3%) or less on a dry weight basis** *T.C.A § 43-27-202(2)(A)(ii)*

Is high-THCa flower legal to grow in Tennessee?

No. Hemp flower above **0.3% total THC** has not been legal to grow in Tennessee since 2021.

Do TDA rules ban THCa and/or CBD flower?

No. Both the statutory limit for THC and the testing method used for its calculation are defined by state statute. Neither our emergency rules nor our anticipated permanent rules change those laws and do not impose a ban on either THC or THCa.

- Under a post-decarboxylation testing method, required by statute, the limit for THC in HDC products is 0.3%.
- A post-decarboxylation testing method requires assessment of both THC and THCa in determining the amount of THC within a product.

Lab Registration

How do suppliers and retailers find a TDA registered laboratory?

Online laboratory registration is expected to begin soon.

- Digital Application Form
- Submission of Required Documents
- A list of registered laboratories will be posted on TDA's website.

Licensing

How long does it take to get an HDC license?

TDA is processing applications in the order they are received. We understand that practical implementation of regulatory program requirements takes time. From July 1 until September 30, the department will focus on **issuing licenses** and conducting outreach to businesses to provide education about requirements.

The department will begin regulatory enforcement of licensing requirements on **October 1, 2024**.

Additional Questions

- The department will compile questions posed in the chat and provide answers in a supplemental document.
- This document, along with the slide deck, will be emailed to all attendees after the webinar. Thank you for your participation and understanding.

Next Steps

- **Final rules will be completed as soon as possible.**
 - The department is committed to doing this right and serving the stakeholders affected by these rules.
 - The department stands committed to communicating changes in the regulatory process to stakeholders as they occur.
- **TDA will educate before we regulate.**
 - The department is developing educational materials and assets to facilitate success for licensed businesses.
 - The department is committed to practical implementation of the program in service to consumers and industry.

Thank You For Attending

For more information about our HDC licensing program, please visit www.tn.gov/agriculture/businesses/hemp.html or scan the QR code below.



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