



THC Drinks on the Menu: What Texas Bars and Restaurants Need to Know Before December 11

Hemp-derived THC seltzers and cocktails have moved from smoke shops onto the menus of Texas bars, restaurants, and music venues. For many owners and operators, they are a meaningful source of revenue, particularly from guests who are drinking less alcohol. They are also subject to rules that keep changing. In the past 13 months, the rules have been rewritten by an executive order, two state agencies, the Texas Supreme Court, and Congress, and the most significant change has not yet taken effect.

What Texas Requires Today

After Governor Greg Abbott vetoed a legislative ban in 2025 and the legislature did not pass a replacement, Texas regulated consumable hemp products through agency rules. Here is what those rules require of a venue that holds a Texas Alcoholic Beverage Commission (TABC) permit.

- **No sales under 21, and an ID check on every sale**

TABC's hemp rules prohibit a license or permit holder from selling, serving, or delivering a consumable hemp product to anyone under 21 and require staff to carefully inspect a valid government-issued photo ID before completing the sale. TABC first adopted these requirements as [emergency rules](#) in September 2025 and made them permanent in January 2026. The permanent rules allow TABC to suspend a permit for less serious violations and to cancel it for more serious ones.

- **A separate state registration**

A TABC permit does not inherently authorize hemp sales. Each location that sells consumable hemp products must be registered with the Texas Department of State Health Services (DSHS). Under DSHS rules published on March 31, 2026, the annual retail registration fee rose from roughly \$150 to \$5,000 per location in addition to applicable Texas Online fees. Those rules are the subject of ongoing litigation, but they are currently in effect.

- **Compliant products only**

Products must stay within the 0.3% delta-9 THC limit by dry weight and the total THC standard in the DSHS rules and must be tested, labeled, and packaged as the rules require. Since July 31, 2026, products containing delta-8 THC, delta-10 THC, and similar converted cannabinoids are no longer treated as lawful hemp in Texas, following a May 2026 Texas Supreme Court decision upholding DSHS's authority.

A properly sourced delta-9 hemp beverage, sold by a registered location to an adult whose ID has been checked, remains lawful under Texas law today.

The Federal Deadline: December 11, 2026

For establishments, the more immediate concern is the approaching federal deadline. A federal appropriations law enacted in November 2025 narrowed the federal definition of hemp to exclude any final product containing more than 0.4 milligrams of total THC per container. Products above that limit will be treated as marijuana, a Schedule III controlled substance under federal law. THC beverages on the Texas market typically contain several milligrams per can, which is many times the new limit.

The change was originally scheduled to take effect on November 12, 2026. On September 2, 2026, the President signed [H.R. 6500](#), which moved the effective date to December 11, 2026. Several pending bills in Congress would preserve hemp beverages under a framework similar to alcohol regulation, with a minimum purchase age of 21. None have passed. Unless Congress acts again, most THC beverages now sold in Texas venues will be federally unlawful on December 11 whatever Texas law allows.

The Questions the Rules Do Not Answer

Over-service: The Texas Dram Shop Act applies to providers of alcoholic beverages. It sets the standard for liability, and it gives employers a statutory safe harbor when servers are trained through a TABC-approved program. A THC beverage is not an alcoholic beverage. A claim that a venue over-served THC to a guest who then injured someone would likely proceed under ordinary negligence principles, without the act's defined standard and without its safe harbor. A guest who has consumed both alcohol and THC complicates the analysis further, and staff have fewer familiar cues for recognizing impairment from THC.

Insurance: Many liquor liability and general liability policies were not written with THC products in mind, and some contain cannabis or controlled-substance exclusions. Operators should confirm in writing with their broker whether hemp beverage sales are covered, both now and after the federal definition changes.

The permit holder: TABC has made clear it will discipline permit holders for hemp violations. It has not said how it will treat a permit holder that continues to sell products that Texas permits but federal law classifies as a controlled substance. Operators should not assume that compliance with Texas hemp rules will protect their permits.

Contractual Obligations: Supply agreements, leases, loan covenants, and franchise agreements commonly require compliance with all applicable laws, including federal law. Continued sales after December 11 could place a venue in default under documents that have nothing to do with hemp.

What Operators Should Do Now

- Confirm that every location selling hemp beverages holds a current DSHS Retail Hemp Registration.
- Apply the same ID discipline to THC beverages as to alcohol and document staff training on ID checks. Standard retail server training does not address THC.
- Obtain certificates of analysis from suppliers and remove any product containing delta-8, delta-10, or other converted cannabinoids.

- Adopt a written service policy covering serving limits, separating THC from alcohol, and when to stop service.
- Obtain a written coverage position from the venue's insurance broker.
- Plan for December 11. Limit inventory commitments, review return and termination rights with suppliers, and decide in advance whether to pull products if Congress does not act.
- Review leases, loan documents, and franchise agreements for compliance-with-laws provisions.

This area is changing quickly, with pending litigation over the DSHS rules, pending federal legislation, and a Texas legislative session beginning in January 2027. Bar and restaurant owners should account for the December 11 deadline when making inventory commitments and reviewing supplier agreements.

This client alert was drafted by [Brittainy Joyner](#), an attorney in the Spencer Fane Litigation and Dispute Resolution group. For more information, visit www.spencerfane.com.

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