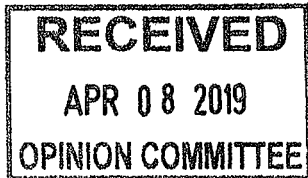


TEXAS HOUSE OF REPRESENTATIVES



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Terry Canales
District 40

House Committee on Transportation, Chair • House Committee on Land & Resource Management

April 5th, 2019

The Honorable Ken Paxton
Attorney General of Texas
209 West 14th Street
Austin, Texas 78701

Dear General Paxton:

A few weeks ago, the City of Edinburg, Texas wrote to you to request a legal opinion and guidance regarding the confusion surrounding the legal status of cannabidiol (CBD). As the State Representative for the City of Edinburg, and the Chairman of the House Committee on Transportation, I would like to make an official Attorney General Opinion Request.

CBD is a concentrated solvent extract that's produced from cannabis flowers or leaves. It is dubbed as a non-intoxicating extract as opposed to tetrahydrocannabinol (THC). In the last few years, CBD oil and other CBD products have been sold and used to treat a range of medical conditions, including epilepsy, Parkinson's disease, schizophrenia, and anxiety disorder.

Since the enactment of SB 339, the federal government passed the 2018 Farm Bill.¹ The Bill removed hemp and hemp-derived products from the list of Schedule I drugs under the Controlled Substances Act.² The federal definition of hemp requires that it contain less than 0.3% THC.³ Thus, the wide-spread belief as a result of these laws is that CBD oil extracted from hemp that contains less than 0.3% THC is legal and may be sold, purchased, possessed, and used.

Retail and consumer behavior reflect this belief. CBD stores have opened across the state, including in Hidalgo County, selling a variety of CBD products. Customers visit these retailers to purchase CBD products in hopes of treating their ailments, sometimes chronic. They possess CBD in their homes, in their cars, and in their bags and purses.



Despite the Farm Bill and retailer and consumer actions, certain jurisdictions in the State continue to prosecute for the sale, distribution, and/or possession of CBD products, including CBD oil. In Tarrant County, District Attorney Larry Moore has said in response to media inquiries that CBD is illegal under state law and that his office will prosecute persons and businesses. ⁴ In contrast, the Denton County District Attorney's office responded to a media inquiry that it is currently not pursuing CBD only cases given the state of the law.⁵

On March 15th, the Commissioner of the Texas Department of Health and Human Services signed an amendment to remove hemp from the list of controlled substances. This administrative change, if legal and binding, could potentially help settle the situation but the results still remain unclear.

Given the confusion among jurisdictions within the State, and the apparent disparity between state and federal law regarding CBD, I am requesting guidance for the sake of my constituents, businesses throughout the state, and law enforcement. I believe it is imperative that we clarify how law enforcement should handle CBD sales and possession, in order to inform Texans of the correct status of the law. I therefore ask: Is the sale, distribution, and possession of CBD products, including CBD oil, permitted in Texas?

Very Truly Yours,



Representative Terry Canales

¹ Agricultural Improvement Act of 2018, Public Law No. 115-334, 132 Stat 4490.

² Id. § 12619 of the 2018 Farm Bill, Conforming Changes to Controlled Substances Act (providing “[t]he term ‘marihuana’ does not include—(i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946”).

³ 7 U.S.C. § 5940(b).

⁴ <https://www.nbcdfw.com/investigations/Healing-Power-or-a-Dose-of-Trouble-CBD-Oil-Takes-Law-Enforcement-By-Surprise-505159071.html>

⁵ Id.

