

Hazardous and Illicit Products in Texas

Retail Surveillance of the Largest “Hemp” Retail Chains

Selling Flower, Vapes and Edibles in the State of Texas

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***Disclaimer:** This report summarizes findings based on publicly observable retail practices and product marketing, as well as publicly available information from federal and state agencies. The information presented is intended solely for educational, public health, and policy analysis purposes. Views expressed herein represent those of the author alone and do not necessarily reflect official positions or endorsements of any affiliated institution or organization. This report does not offer legal advice and should not be interpreted as such.*

I. ABSTRACT

This report presents findings from an April 2025 retail surveillance study of the three largest retail chains in Texas that sell intoxicating food products (edibles and beverages) and smokable products (flower and vapes) containing tetrahydrocannabinol, using locations in the Houston Metropolitan Area.

The 2018 Farm Bill legalized the production of cannabis with low concentrations of tetrahydrocannabinol (“THC”), also called “hemp”, to support the farmers of America with a new cash crop. Intended to facilitate the development of an industrial market focused on hemp fibers, soaps, textiles, plastics, and fuels, the bill made no mention and provided no language permitting the interstate commerce of food containing tetrahydrocannabinols (the active ingredient in marijuana). Nevertheless, an illicit market for high-potency tetrahydrocannabinol edibles and vapes has emerged, operating in violation of federal and state regulations such as the Federal Food, Drug, and Cosmetic Act and Texas Health and Safety Code. Despite claims from industry advocates attributing regulatory violations and public health concerns to an unknown subset of “bad actors,” **this investigation found pervasive noncompliance among the largest retail chains.**

All retail chains surveyed sold a wide array of hazardous and illicit products including marijuana flower, high-potency THC concentrates, synthetic cannabinoids (e.g., THC-P, delta-8 THC), tianeptine (“gas station heroin”), kratom and kratom extracts, synthetic kratom alkaloids (e.g., 7-hydroxymitragynine, 10x the potency of morphine), psychedelic mushrooms (*Amanita muscaria*), neurotoxins (e.g., muscimol, grayanotoxin), inhalants (nitrous oxide “whippets” and nitrite “poppers”), and illicit sexual enhancement drugs containing sildenafil. Retailers *deceptively marketed* inhalants for other purposes, while having product names, attributes, and related paraphernalia that supported their illicit use as inhalants. Many of these substances were available in e-cigarette devices. **Importantly, the U.S. Food and Drug Administration (“FDA”) warns *against* the use of products containing *any* of these substances.**

All retail chains surveyed sold a variety of THC edibles. These edibles often contained youth-appealing elements including bright colors and cartoon characters, and packaging sometimes mimicked popular brands of ordinary food and beverages including Oreos® and Fanta®. Edibles at each location contained up to 15,000 mg of THC per package, which far exceeds potency limits set by recreational cannabis states (e.g., 10 mg per serving in California and Oregon). Many THC edibles were, in fact, calculated as containing concentrated tetrahydrocannabinol ingredients not meeting the criteria for “hemp” under the Texas Controlled Substance Act. Moreover, some edibles contained psychedelic mushrooms or kratom in the form of gummies, chocolates, or other sweets. For example, one retail chain sold synthetic kratom alkaloid ice cream cones. All retail chains surveyed also offered drug detox products (e.g., shampoo, drinks), **drug test falsification substances** (e.g., synthetic urine with heating pads), prosthetic penile devices with bladders for duping drug test administrators, **drug paraphernalia often in the form of popular children’s cartoon characters**, sex toys, and drug concealment devices. Some even sold **cutting agents** for manufacturing or diluting Schedule I substances.

Retail practices further increased public health risks: more than half of the approximately 200 stores operated by these three chains (**58%**) **were unregistered** with the Texas Department of State Health Services (DSHS), 38% were located within 1,000 feet of schools or daycares, and **staff consistently failed to verify customer identification**. All chains provided free samples of unsolicited substances other than those purchased, a practice that can increase risk of use initiation and dependence – and in some instances, can be a violation of state law.

These findings support that there are widespread and systemic violations of existing federal and state laws among major industry operators in ways that substantially threaten public health and safety. Current regulatory oversight, including FDA enforcement and Texas statutes, has proven inadequate to curb the sale of these hazardous substances. **Given this pervasive noncompliance, it is unrealistic to assume that loosening regulations will lead to greater compliance. Instead, eroding legal standards would exacerbate existing public health risks by further increasing access to these dangerous intoxicants.** To urgently and adequately address this critical public health threat, state laws are needed that reiterate the illegality of these hazardous substances and provide strengthened enforcement mechanisms.

II. EXECUTIVE SUMMARY

1. Illicit Products Sold in All Retail Chains

Each retail chain surveyed sold *all* of the following products that are either explicitly banned, adulterated, or restricted under federal or state law, or are widely recognized as violating regulatory intent based on how they are labeled, marketed, or sold.

- **Federally banned substances**
 - Marijuana flower (21 U.S.C. § 812(c), Schedule I)
 - Hash oil (21 U.S.C. § 812(c), Schedule I)
 - THC edibles/beverages from interstate commerce (21 U.S.C. § 331(l), FD&C Act § 301(l))
 - Delta-9 THC vapes from interstate commerce (21 U.S.C. §§ 321(g)(1), 355(a), and 331(d))
 - Tianeptine (“gas station heroin”)
 - Tianeptine is also an opiate according to Tex. Health & Safety Code § 481.002(30)
 - Many tianeptine products sold in Texas display (a) “Supplement Facts” panels and (b) list out-of-state manufacturers, indicating they are both (i) marketed as supplements and (ii) distributed in interstate commerce, supporting that they are in violation of 21 U.S.C. §§ 331 and 342.
- **Federally banned substances that are deceptively marketed** (Tex. Bus. & Com. Code §17.41–§17.63)
 - Nitrous oxide mislabeled “for food purposes” or “for food additive” (Tex. Health & Safety Code § 485, Tex. Bus. & Com. Code § 17.46(b)(5), (7), and (24))
 - Selling inhalant paraphernalia AKA “crackers” (Tex. Health & Safety Code § 485.033)
 - Author was even offered a “cracker” and nitrous oxide and encouraged to use it in the store.

- Nitrite “poppers” mislabeled as “nail polish remover” or “leather cleaner” or “industrial solvent” (Tex. Bus. & Com. Code § 17.46(b)(5), (7), and (24))
 - Labels claiming these are “nail polish remover” are undermined by the fact that these products:
 - (a) Don’t work as nail polish remover, (b) contain alkyl nitrites which are vasodilators, not solvents; true nail polish remover contains acetone, ethyl acetate, or isopropyl alcohol.
 - Products are also branded with names like “Super Rush” and “Jungle Juice” which clearly reference their inhalant effects and aromatic appeal. Legitimate nail polish remover brand names include Cutex, Sally Hansen, and Equate.
 - Products contain plastic beads within the liquid which restore inhalant potency by shaking it. These are only useful if the product is being sniffed, not used cosmetically.
 - These products are sold in stores that otherwise primarily sell psychoactive substances and other drug use paraphernalia.
- **Products for the falsification of drug test results** (Texas Health & Safety Code § 481.133)
 - Detoxification products for hair, saliva, urine, and blood
 - Prosthetics (penises with bladders) sold with synthetic urine and urine heating pads
- **Substances banned in other states**
 - Synthetic cannabinoids are banned in at least 17 states.
 - Tianeptine is banned in 17 states.
 - Kratom is banned in 6 states.
 - Amanita muscaria, a psychedelic mushroom, is banned in Louisiana.

Demonstrating widespread noncompliance with regulations, **most (58%) of the approximately 200 retail stores operated by these three retail chains (advertised through their websites) were not registered** with the TX Department of State Health Services (“DSHS”), despite being legally required to under Health and Safety Code.

2. Retail Practices that Facilitate Substance Use and Use Initiation Including Among Young People

Retail chains also engaged in **multiple marketing and sales practices** that promote the widespread use of hazardous, illicit substances.

- Staff at *each* retail chain **failed to check personal identification**.
- Each retail chain gave away **free samples** including intoxicants the customer had not requested or purchased.
 - This can facilitate substance use initiation, combined use of multiple substances, increase risk of dependence, and increase risk of overdose from multi-substance use.
 - Offering free samples of intoxicants **closely mirrors tactics commonly used in illicit drug distribution**, where users are introduced to new substances through free initial exposure.¹
 - Some stores gave away **free nicotine vapes**.
 - Free distribution of nicotine e-cigarettes is **federally prohibited** (21 C.F.R. § 1140.16(d)).
 - **Texas Health & Safety Code § 161.0875(a) prohibits** free distribution of vapes to consumers.
- Each store sold THC products with **potency far exceeding limits set by recreational cannabis states** – both liberal and conservative. States such as California, Colorado, Oregon, Montana, and Arizona all restrict THC content to 10 mg per serving and 100 mg per package. However, *each* chain of retailers is openly selling edibles with at least **15,000 mg of THC per package** and **1,000 mg of THC or more per individual piece**.
- Among the ~200 retail stores, more than one-third (**38%**) **were located within 1,000 ft of a school/daycare**.
- **Youth-Oriented Marketing**. Many products sold in these retail chains could appeal to children including:
 - Cartoon characters on product packaging
 - THC-laced gummies, chocolates, brownies, popsicles, and fruity beverages
 - FDA prohibits THC as an additive in foods (21 U.S.C. § 331(ll))
 - Fruit-flavored vapes containing nicotine, THC, and kratom
 - Fruit-flavored kratom ice cream cones
 - FDA has determined kratom is an unsafe food additive (21 U.S.C. § 342(a)(2)(C)(i))

- Drug paraphernalia featuring popular cartoon characters including Minions® (from the Despicable Me® franchise), Super Mario®, Baby Yoda, SpongeBob SquarePants®, and Pokémon®
- Products copying popular brands of sweets such as Oreos® and Fanta®
- **Drug concealment devices** were widely sold.
 - These were designed to look like everyday household items, but with hidden compartments for drugs.
- Stores also sold **lactose, mannitol, and lidocaine** – common adulterants **used to manufacture and dilute illicit substances including heroin, cocaine, methamphetamine, and MDMA (ecstasy).**
- Stores sold **THC-O vapes** which can create **ketene, a highly poisonous gas** that is extremely toxic to lungs.

3. This Is Not a “Few Bad Actors”

Industry groups often claim that any problems stem from a handful of “bad actors.”^{2 3 4} However, this investigation found that **the largest chains in the state** – those with the most influence and reach – **are the primary drivers of this hazardous, deceptive, and predatory market.** Their practices represent the **industry norm**, not the exception.

4. Regulatory Frameworks Have Failed

Despite clear federal and state laws prohibiting the sale of many of these substances, Texas retailers continue to sell them openly – highlighting the failure of existing regulatory frameworks.

- **Texas laws** requiring store registration, banning drug test falsification devices, and prohibiting the sale of inhalant paraphernalia **are routinely ignored without consequence.**
- The **FDA has explicitly stated** that THC, tianeptine, and kratom are **not lawful in food, dietary supplements, or over-the-counter products**, and their presence renders products **adulterated** under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 331, § 342, § 343).
- **Despite numerous FDA warnings**, the lack of robust enforcement actions – including seizures, injunctions, and prosecutions – has enabled continued retail sale of illegal and hazardous substances.
- These findings confirm that **regulating intoxicating substances through existing food, drug, or hemp frameworks has failed.** These frameworks are not designed to stop the retail sale of high-potency cannabinoids, opiates, or hallucinogenic mushroom products.
- **Only strong, enforceable bans** on specific compounds, product types, and retail practices can meaningfully reduce access to these hazardous substances and protect public health.

5. The Urgency for Legislative Action

Without decisive intervention, Texas will continue to serve as a hub for the **importation and retail sale of illicit products disguised as hemp, candy, baked goods, legal mushrooms, whipped cream propellant, nail polish remover, and novelty products.**

The findings of this report underscore the need for statewide bans – not weak regulatory frameworks – on intoxicants, and for strong enforcement mechanisms to protect public health and safety.

III. INTRODUCTION

Overview

The 2018 Farm Bill was intended to provide an alternative cash crop for farmers and foster an industrial hemp market in the United States. It did not, and does not, legalize the manufacturing and sale of intoxicating edibles and vapes containing tetrahydrocannabinols – a position that has been confirmed by the U.S. Food & Drug Administration repeatedly through warnings letters and press releases.^{5 6} Despite this, an illicit recreational market for tetrahydrocannabinols has emerged in the United States,⁷ in direct repudiation of the Food, Drug and Cosmetic Act (“**FD&C Act**”) and state laws. This report investigates how that market is operating – particularly among the largest retail chains in Texas.

Legalization of Hemp Production

On December 20, 2018, President Donald J. Trump signed into law the 2018 Agricultural Improvement Act (“*AIA*”) – commonly known as the 2018 Federal Farm Bill. Intended to bring additional opportunities to farmers in the United States, the bill introduced new language to legalize the cultivation and harvest of the defined term “hemp”, all under a newly titled “Subtitle G – Hemp Production.”

The intent of Subtitle G was to introduce a new cash crop that the farmers of America could cultivate and harvest for use in food and industrial products. Such products would require the use of cannabis seeds and cannabis fiber, both of which were already exempted from the federal definition of marijuana due to the absence of tetrahydrocannabinols (such exemptions comprehensively include cannabis stalks, fiber from cannabis stalks, cannabis seed oil and sterilized cannabis seeds, as well as any other compound, manufacture, salt, derivative, mixture or preparation of such items).

In fact, the campaign backing AIA employed the slogan “*rope not dope*” when lobbying for its passage, emphasizing to Congressional leadership that the bill would *not* legalize intoxicating cannabis products and was focused on cultivating and harvesting raw ingredients for industrial products such as hemp rope, hemp fibers and hemp textiles. Several legislators even went on the record in the year 2018 confirming such an interpretation of the bill (“...*the only thing you’re going to accomplish by smoking hemp is wasting breath, time and lighter fluid...*”).⁸

Farmers had a problem however – hemp grown for fiber, which can stretch over 12 ft in the air and looks like bamboo, had trace amounts of tetrahydrocannabinol compounds. Tetrahydrocannabinol, or **THC**, **is the primary intoxicant in marijuana that produces a “high.”** Thus, Congress crafted the AIA to allow farmers to grow cannabis crops with trace amounts of tetrahydrocannabinols, provided such a crop was promptly turned into a substance exempt from marijuana that could be used for nutritional and industrial purposes (i.e., seeds and fiber). Any remaining substances created in such a process that contained tetrahydrocannabinols would then be destroyed. In fact, outside of the definition of “*hemp*”, **the only mention of “derivatives” in Subtitle G refers specifically to the disposal of derivatives** created in violation of Subtitle G.

Therefore, the 2018 AIA amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) by adding Subtitle G and creating a framework by which states could authorize the cultivation and harvest of hemp crops. At only six (6) pages long, almost five (5) pages of Subtitle G was devoted explicitly to hemp production, wherein it granted authority to states to develop their own “state plan” for hemp production or to operate under a federal plan established by the Secretary of Agriculture. Either approach was required to adhere to several minimal requirements, including:

- A practice to maintain information regarding land on which hemp is produced
- A procedure for testing hemp, using post-decarboxylation or other methods
- A procedure for disposal of plants and derivatives in violation of Subtitle G

The testing procedure was later codified by the USDA in 7 CFR Part 990 (the “Domestic Hemp Production Program”), requiring that any testing methodology consider “...*the potential conversion of THCA in hemp into THC...*”, and therefore must “...*report the total available THC...*”. Section 990.27 even went on to state that hemp “...*exceeding the acceptable hemp THC level constitute marijuana, a schedule I controlled substance...*”.

Importantly, the AIA explicitly allowed states to enact stricter hemp laws than Subtitle G (“...*more stringent than this subtitle...*”), even going so far as to reserve the right of states to fully prohibit the “...*production of hemp...*”.

The Interstate Commerce & Sale of Food Products Containing THC Remains Federally Illegal

Crucially, the AIA contains **no provisions** regarding the manufacturing, labeling, packaging, distribution, or sale of food, drugs, or devices containing tetrahydrocannabinols for human consumption. In fact, terms like “manufacture,” “label,” “package,” “sell,” “possess,” and “distribute” do not appear anywhere in Subtitle G of the 2018 Farm Bill.

Its focus is limited to regulating the cultivation and testing of hemp crops, and it expressly defers to the Federal Food, Drug, and Cosmetic Act on matters related to consumable products.

The only mention of food in the entirety of Subtitle G comes on the final page, under the section titled “*Regulations and Guidelines; Effect on Other Law*”, which states that Subtitle G did not “...*affect or modify the Federal Food, Drug and Cosmetic Act...*” and preserved the ability of the FDA to enforce existing federal regulations – which would include a ban on interstate commerce.

FDA Response to 2018 Farm Bill (December 20, 2018)

Such authority was immediately exercised by the FDA the very day the Farm Bill was signed (December 20, 2018), with two press releases from the agency focused on (a) approving the safety of hempseed products for introduction into commerce, and (b) reaffirming the agency’s position that the introduction into interstate commerce of any food containing tetrahydrocannabinol was illegal under the FD&C Act.

- Statement from FDA Commissioner Scott Gottlieb, M.D. on the Signing of the 2018 AIA:
 - “*We are announcing that the agency has completed our evaluation of three Generally Recognized as Safe (GRAS) notices related to hulled hemp seeds, hemp seed protein and hemp seed oil and that the agency had no questions regarding the company’s conclusion that the use of such products as described in the notices is safe*”
 - “*Additionally, it’s unlawful under the FD&C Act to introduce food containing added CBD or THC into interstate commerce, or to market CBD or THC products as, or in, dietary supplements, regardless of whether the substances are hemp-derived.*”⁹
- FDA Reiterates CBD and THC Restrictions:
 - “*These GRAS conclusions do not affect the FDA’s position on the addition of CBD and THC to food. As stated on FDA and Marijuana: Questions and Answers, it is a prohibited act under section 301(l) of the Federal Food, Drug, and Cosmetic Act to introduce into interstate commerce a food to which CBD or THC has been added*”¹⁰

The FDA made it clear: **Food containing any THC – regardless of source – is illegal to sell across state lines** under section 301(l) of the FD&C Act.

FDA Enforcement: Limited but Consistent

The FDA for its part, has continued to exercise its enforcement of the FD&C Act, sending more than twenty warning letters about food and drug products containing tetrahydrocannabinols between 2021 and 2024. These letters highlight clear violations of the FD&C Act, notifying the offenders that failure to address the issue may result in legal action, including, “*seizure and injunction.*” However, enforcement has often lacked follow-through from the U.S. Department of Justice – limiting impact on retail practices despite clear federal illegality.

Illicit Recreational Markets

Despite such clear and decisive action by the FDA, certain entities have taken to shipping food containing tetrahydrocannabinols around the United States of America, claiming that such a practice is legal. Sometimes states, like Colorado, explicitly prohibit the in-state sale of hemp products containing intoxicating cannabinoids (e.g., delta-8 THC, delta-9 THC and delta-10 THC), while still allowing exports under “*safe harbor*” provisions (Colorado SB 23-271¹¹). Such laws specifically acknowledge the danger these products pose; in the words of Colorado lawmakers, these laws are “...*necessary to protect the public health...*”.

Without FDA enforcement, such entities in the psychoactive “hemp” market continue to engage in the distribution and sale of products that **attempt to exploit the following *purported* loopholes** in the AIA:

- **THCA Loophole**: Operators will claim that the definition of “hemp” only requires a delta-9 THC potency below 0.3%, and they ignore any state or federal requirements regarding decarboxylation and total THC.

- **Weight Loophole:** Although there is no provision in the FD&C Act that allows for delta-9 THC in food products, operators have claimed legality by applying the same 0.3% potency used for hemp to food products.
- **Ingredient Loophole:** Although the definition of “hemp” is clear regarding 0.3% potency, many edibles and beverages made today that contain “hemp” in fact, do not contain “hemp”, but contain tetrahydrocannabinols.
- **Synthetic Derivatives:** Despite the farm bill stating that the “hemp” definition included “all derivatives” of the cannabis plant itself, this language has been expanded by the industry beyond such first order derivatives of the cannabis plant to include any compound that originated as a “hemp” plant, allowing an unlimited amount of synthetic compounds to be purportedly legalized under the definition of “hemp.”

Such products are typically sold without the extensive background checks, chain of custody protocols, and physician oversight and prescriptions, testing and safety standards, labeling and packaging regulations, and active regulatory oversight and enforcement required in current medical and recreational cannabis markets, essentially operating with incredibly limited government oversight and enforcement.

IV. BACKGROUND

In recent years, representatives from the psychoactive “hemp” industry – particularly industry associations at the state and federal levels – have frequently employed **the vague narrative of so-called “bad actors.”** This undefined term is strategically used to suggest that legal and regulatory violations are isolated incidents perpetrated by a small, unknown subset of the industry, implicitly characterizing the broader industry as compliant and responsible. This narrative functions as an industry-wide public relations strategy, consistently repeated in legislative hearings, Congressional testimony, social media, and media coverage, especially in response to growing public health and safety concerns. Recent hearings in the Texas Legislature, particularly on Senate Bill 3 (SB 3) and House Bill 28 (HB 28), illustrate this “bad actor” rhetoric used to oppose meaningful oversight and necessary prohibitions. Emphasizing these arguments assists the industry in attempting to normalize the recreational consumption of tetrahydrocannabinol – a Schedule I Controlled Substance – while deflecting scrutiny.

V. PURPOSE

This study critically evaluates the claim that risky and illicit sales practices in the psychoactive “hemp” industry are limited to an unidentified minority of so-called “bad actors.” To test this claim rigorously – and to ensure findings reflect broader industry norms rather than isolated incidents from individually owned stores – this study examines product offerings and sales practices from the three largest retail chains in Texas selling both food products (including edibles and drinks) and smokable products (including flower and vapes) containing THC. To avoid bias from geographical clustering, surveillance for each chain included stores that were not geographically proximal.

In addition to assessing product availability and business practices, this report evaluates the current legal status of these products and practices under both state and federal law.

These findings provide valuable insights regarding ongoing policy debates as to whether the State of Texas, and other similar states, should pursue regulation versus prohibition of such food and smokable products containing tetrahydrocannabinols as well as other hazardous, intoxicating substances currently sold in these same stores.

VI. METHODS

Sampling Frame

Retail chains were selected through a multi-step process:

- **Initial Identification:** An initial list of the 50 largest retail chains in Texas was created using public records obtained through information requests to the Texas Department of State Health Services (DSHS) in 2024 and 2025 for active registered retailers of consumable hemp products.

- **Refinement and Verification:** The list was refined and augmented using search engine analysis of company names, websites, locations, and ownership information. Inconsistencies in business registrations (e.g., mismatched DBAs) were corrected to reflect the branding used at physical store locations.
- **Inclusion of Unregistered Retailers:** Additional retail stores were added for chains to include store locations advertised online that were not registered with DSHS.
 - Note: operating unlicensed locations is an illegal practice under Texas Statute and Texas Administrative Code – such establishments are effectively operating outside of DSHS oversight.
- **Final Selection Criteria:** From the master list, a final sample was drawn, limited to retail chains selling both edibles (food/beverage) and smokable (flower/vape) products containing tetrahydrocannabinol. Retail chains such as grocery stores or pharmacies that focus on non-intoxicating hemp products (e.g., hempseed protein powder and hempseed oil) were therefore effectively excluded.

Study Location

Retail locations for in-person surveillance were selected using the following criteria:

- To ensure study feasibility within a limited timeframe, surveillance was focused on a single metropolitan area.
- The selected area was required to have multiple locations for each of the three largest retail chains selling both edibles and inhalable THC products in the State of Texas.
- The **Houston Metropolitan Area** was chosen for this study:
 - Defined as the region within a 60-mile radius of the population center of **Harris County**, which included surrounding counties such as **Montgomery, Galveston, Fort Bend, and Chambers**.
 - The Houston Metropolitan Area is currently the 5th most populated metropolitan area in the United States. At its core is Harris County, which is currently the most populous county in the State of Texas and the 3rd most populous county nationwide.
 - Due to its size, diversity, and high density of retail activity, the Houston area provides a strong proxy for evaluating the practices of large-scale operators both statewide and potentially at a national scale.

Selection of Retail Locations

- Finally, retail locations were selected to survey. To ensure a geographically diverse sample that avoided potential community-level confounding, retail locations were intentionally selected at least 30 miles away from other locations within the same retail chain.

VII. FINDINGS

The following summary of identified products and business practices is organized by substance type and route of administration. Each section begins with a description of the data collected through visits to multiple retail locations, followed by a brief narrative contextualizing the findings. Where available, supporting documentation from federal agencies such as the U.S. Food and Drug Administration and Drug Enforcement Administration (“**DEA**”) were cited, along with highly relevant scientific research literature. References to state laws and federal laws were also included, particularly in cases where the substances identified appear to violate – or were designed to circumvention – existing legal frameworks.

The categories presented below are organized by substance type and route of administration. A corresponding list of specific products in each category is provided in **Exhibit A**.

- Retail Practices
- Tetrahydrocannabinol (THC)
- Opiates (including Tianeptine “gas station heroin”)
- Neurotoxins (including “magic mushrooms”)
- E-cigarettes (not including tobacco or nicotine)
- Inhalants (including nitrous oxide)
- Drug Test Falsification Kits (including synthetic urine)

- Drug Paraphernalia and Drug Concealment
- Adult Paraphernalia & Supplements
- Other Substances

Retail Practices

In this section, we summarize – in aggregate – retail practices from the three largest retail chains selling both food (candy, gummies, drinks) and smokable (flower and vape) products containing THC.

- Total Retail Locations in Texas (registered through DSHS or advertised online): 198 locations
- Total Retail Locations in Texas advertised online but **not** registered with DSHS (April 2025): 114 (57.6%)
- Total Retail Locations in Texas within 1,000 feet of a school or daycare: 76 (38.4%)
- Retail Locations for **all** three chains:
 - **Failed to check personal identification** at one or more retail locations
 - **Offered free samples** of various products at one or more retail locations
 - **Offered free samples of substances other than those purchased** during checkout, potentially introducing buyer to new substances.
 - Offering free samples of intoxicants **closely mirrors tactics commonly used in illicit drug distribution**, where users are introduced to new substances through free initial exposure.¹

Tetrahydrocannabinol (THC) (Marijuana, Hash Oil, “Hemp”)

Interstate Commerce

- **Fact: All retail chains sold food products containing delta-9 THC imported from outside of Texas.**
 - Note: On the very same day the AIA was signed, the FDA released two statements in response. Both statements recognized the safety of certain hemp seed products, specifically hulled hemp seeds, hemp seed oil and hemp seed protein powder. Both statements also explicitly stated that introducing food containing tetrahydrocannabinol into interstate commerce was federally illegal under the FD&C Act.
 - Note: **It is therefore illegal, under federal law, to import food containing delta-9 THC into Texas.**
 - FDA: “...Additionally, it is unlawful under the FD&C Act to introduce food containing added CBD or THC into interstate commerce, or to market CBD or THC products as, or in, dietary supplements, regardless of whether the substances are hemp-derived...”⁹
 - 21 U.S.C. 331(II). “Prohibited Acts”: “The introduction or delivery for introduction into interstate commerce of any food to which has been added a drug approved under section 355 of this title” (US Code, Title 21: Food & Drugs, Ch. 9: Federal Food, Drug, and Cosmetic Act, Subchapter III: Prohibited Acts and Penalties)¹²
- **Fact: All retail chains sold food products containing delta-8 THC imported from outside of Texas.**
 - Note: Since the signing of the AIA, the FDA has issued warning letters to twenty-three (23) companies in the United States, informing such companies that delta-8 THC is an unsafe food additive; therefore any food containing delta-8 THC is considered adulterated by the FDA, and thus, such food is prohibited from introduction into interstate commerce.¹³
 - Note: **It is therefore illegal, under federal law, to import food containing delta-8 THC into Texas.**
 - FDA: “Under section 409, a food additive is deemed unsafe unless it is approved by FDA for its intended use prior to marketing. Delta-8 THC is not approved for use in any conventional food. Food containing an unsafe food additive within the meaning of section 409 is adulterated within the meaning of section 402(a)(2)(C)(i) of the FD&C Act. Therefore, your [products] are adulterated within the meaning of section 402(a)(2)(C)(i) of the FD&C Act because they bear or contain an unsafe food additive. **Introduction of these adulterated foods into interstate commerce is prohibited under section 301(a) of the FD&C Act, 21 U.S.C. 331(a).**”¹⁴

- 21 U.S.C. 331(a). “Prohibited Acts”: *“The introduction or delivery for introduction into interstate commerce of any food, drug, device, tobacco product, or cosmetic that is adulterated or misbranded”*
- DoD Prohibited Dietary Supplement: *“...Delta-8-tetrahydrocannabinol (Δ8-THC or delta-8-THC) is another form of THC present in the cannabis plant, and it can be produced in a laboratory from CBD. It is now being sold as an ingredient in various products such as vape liquids. Like delta-9-THC, it is prohibited for use by Service Members, and it could show up on a routine drug test...”*¹⁵

Illegal Tetrahydrocannabinol Ingredients

- **Fact: All retail chains marketed food products containing tetrahydrocannabinol ingredients with a calculated delta-9 THC concentration that far exceeded the 0.3% potency required of “hemp.”**
 - Note: A consumable hemp product (or “CHP”) is defined as a “food, a device, a device of a cosmetic...that contains hemp or one or more hemp-derived cannabinoids...”
 - Note: Therefore, a product must contain “hemp” as an ingredient to qualify as a “CHP”. Instead, food products are being made with cannabis ingredients that far exceed the permitted concentration of “hemp”, resulting in manufacturers possessing tetrahydrocannabinols as defined in Section 481.103.
 - Note: The calculation is straightforward. If the weight of “hemp” required to reach the labeled THC amount, plus the weight of other ingredients (e.g., sugar, pectin), exceeds the total product weight, then the psychoactive ingredient is not legally “hemp” and instead qualifies as tetrahydrocannabinols (THC) under the Texas Controlled Substances Act.

Child Attractive Products

- **Fact: All retail chains sold THC products largely resemble the branding of food and beverage products that are popular among children, such as Oreoz (flower) and Funta Gummies (resembling Fanta®).**
 - Note: FDA & FTC have issued warning letters recently to thirteen **companies selling copycat food products containing delta-8 THC**, stating that introducing such products into interstate commerce violates the FD&C Act; *“...make it easy for a young child to ingest in very high doses...”*¹⁶

Infant and Neonatal Exposure

- **Fact: There are no barriers to pregnant or nursing mothers purchasing and consuming these products.**
 - Note: FDA strongly advises against THC use while pregnant/breastfeeding: *“...may affect fetal brain development, because THC can enter the fetal brain from the mother’s bloodstream...may increase the risk of newborn with low birth weight. Research also suggests increased risk for premature birth and potentially stillbirth...breastmilk can contain THC for up to six days after use...”*¹⁷

Smokable Products

- **Fact: All retail chains sold cannabis flower, some marketed as containing a tetrahydrocannabinolic acid (THC-A) potency of at least 35%, meaning an effective total THC concentration of more than 30%, with no other ingredients labeled on the product package.**
 - Note: Such flower is therefore **marketed as having at least 100x the potency of legal hemp.**
 - Note: Such flower is illegal to harvest under current Texas Law (Chapter 122, Agriculture Code), as well as any hemp state plan submitted for USDA approval under Federal Law (7 CFR Part 990).
 - 7 CFR Part 990: *“Cannabis plants exceeding the acceptable hemp THC limit constitute marijuana”*¹⁸
- **Fact: All retail chains sold cannabis extract (e.g. hash oil) marketed with a potency of more than 90%.**
 - Note: Such extract is therefore marketed as having **at least 300x the potency of legal hemp.**

Edible Products

- **Fact: All retail chains sold food products marketed as containing at least 15,000 mg THC per container.**
 - Note: Some retailers even sold food products marketed as containing 20,000 mg THC per container
- **Fact: All retail chains sold food products marketed as containing more than 1,000 mg THC per piece.**

- Note: **These are at least 100x the legal serving and container limits for most recreational marijuana states.** Specifically, established recreational marijuana states including CA, OR, CO and MT require no more than 10mg of THC per serving and 100mg of THC per package.
 - CA: *“An edible cannabis product shall not contain more than: (1) 10 milligrams THC per serving; and (2) 100 milligrams THC per package.”*¹⁹
 - OR: *“Cannabinoid Product - Edibles: 10 mg [per serving] and 100 mg [per package]”*²⁰
 - CO: *“The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC... No individual Edible Retail Marijuana Product unit packaged for Transfer to a consumer shall contain more than 100 milligrams of active THC.”*²¹
 - MT: *“For a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.”*²²
- **Fact: Some retail chains sold frozen edibles in various forms, such as popsicles (marketed as “potsickles”) and frozen chocolate containing THC.**

Beverage Products

- **Fact: Most retail chains sold bottled products marketed as containing at least 500mg THC / container.**
- **Fact: All retail chains sold bottled products marketed as containing more than 10 servings / container.**
 - Note: Some bottles were labeled as containing more than 100 servings per bottle.
 - AAA Foundation for Traffic Safety Study of 2,000 cannabis users in eight states:
 - *“85% of consumers revealed they drive the same day they consume cannabis, with 53% saying they consumed an hour or less before driving”*²³
 - *“Only 29% of consumers believed a police officer could detect the influence of cannabis, 47% did not believe they could and 24% were unsure”*²⁴

Synthetic Cannabinoids

- **Fact: All retail chains sold vape or food products marketed or labeled as containing THC-B.**
 - Note: THC-B is reported to bind 2.5x stronger with the nervous system than delta-9 THC.
 - *“... (-)-trans-Δ⁹-THCP binds with high affinity to both human CB1 and CB2 receptors with a Ki of 1.2 and 6.2 nM, respectively. (-)-trans-Δ⁹-THCP resulted 33-times more active than (-)-trans-Δ⁹-THC (Ki = 40 nM)... and 13-times more active than the newly discovered (-)-trans-Δ⁹-THCB (Ki = 15 nM) against CB1 receptor...”*²⁵
 - Note: THC-B occurs in minute concentrations in cannabis plant (<0.01%). Due to its scarcity in the plant, THC-B is synthetically created to produce consumable products with higher potency.²⁶
- **Fact: All retail chains sold vape or food products marketed or labeled as containing THC-P.**
 - Note: THC-P is reported to bind 33x stronger with the nervous system than delta-9 THC
 - *“(-)-trans-Δ⁹-THCP resulted 33-times more active than (-)-trans-Δ⁹-THC...”*²⁵
 - Note: THC-P occurs in minute concentrations in cannabis plant (<0.01%); it is synthetically created to produce high-potency products.²⁷
- **All retail chains sold vape and food products marketed as containing various intoxicating synthetic cannabinoids, most of which have not been confirmed as naturally occurring phytocannabinoids.**
 - Note: Products observed included those labeled as containing various intoxicating cannabinoids, including but not limited to: delta-6 THC, delta-8 THC, delta-10 THC, delta-11 THC, THC-B, THC-H, THC-M, THC-P, THC-V, THC-X, THC-JD, THC-OP, THC-PO, HHC-O, HHC-P, PHC, CB9A, CBX, 11-hydroxy-THC, THC-P2, HHC-R, and H4-CBD.

Opiates

(Tianeptine, Kratom, 7-OH, Pseudoindoxyl)

Tianeptine (“gas station heroin”)

- **Fact: All retail chains sold multiple brands of tianeptine products like Zaza Red, TD Red and Spar.**
 - Note: Tianeptine acts primarily as a mu opioid receptor agonist, similar to morphine and codeine.²⁸
 - Note: Tianeptine is currently banned in seventeen states, including AL, AR, FL, GA, LA and OK, with pending legislation in other states as of this report.^{29,30,31,32,33}
 - Note: Tianeptine, often labeled as “supplement” is prohibited from interstate commerce by FDA.
 - Note: Many tianeptine products sold in Texas display (a) “Supplement Facts” panels and (b) list out-of-state manufacturers, indicating they are both (a) marketed as supplements and (b) distributed in interstate commerce, supporting that they are in violation of 21 U.S.C. §§ 331 and 342.
 - DEA: “...Severe adverse health effects—including respiratory depression, severe sedation, and death—have occurred from the misuse of tianeptine...”²⁸
 - FDA: “...FDA consider tianeptine...an unsafe food additive...adulterated under the FD&C Act...”³⁴
 - DOJ: “...A California man was sentenced yesterday in federal court...for conspiring to smuggle tianeptine, a highly-addictive drug... into the United States from China...”³⁵
 - DoD Prohibited Dietary Supplement: “...Tianeptine is on the DoD Prohibited Dietary Supplement Ingredients List and serious health risks, including death, have been associated... Tianeptine is addictive and often abused... Overdoses and serious health issues have been reported...”³⁶

Kratom Leaf Products

- **Fact: All retail chains sold multiple brands of kratom leaf products, primarily in powdered form.**
 - Note: Similar to cannabis, kratom leaves contain a variety of psychoactive compounds, with mitragynine being the most abundant. Other compounds found in lower concentrations include 7-hydroxymitragynine (a more potent opioid receptor agonist) along with paynantheine, speciogynine, and others. These compounds contribute to kratom’s stimulant and opioid effects.³⁷
 - Note: Kratom is currently banned in six states, including AL, AR, IN, RI, VT and WI.³⁸
 - Note: In December 2023, the Tampa Bay Times released a story based on autopsy reports from 2010 to June 2022 that cited kratom as a cause of death or contributing factor in 587 Florida deaths.³⁹
 - Note: In August 2016 the DEA attempted to emergency schedule kratom as a Schedule I substance but withdrew the intent in October 2016. Currently it is listed as a Drug & Chemical of Concern.⁴⁰
 - FDA: “...determined that kratom, when added to food, is an unsafe food additive...is adulterated...”⁴¹
 - FDA: “We found that kratom has a strong bind to mu-opioid receptors, comparable to scheduled opioid drugs... we now have 44 reported deaths associated with the use of kratom...”⁴²
 - DoD Prohibited Dietary Supplement: “...Service Members are prohibited from using any product containing kratom as it is on the DoD Prohibited Dietary Supplement Ingredients list...”⁴³

Kratom Extract Products

- **Fact: All retail chains sold multiple brands of kratom extract including OPMS Black Liquid.**
 - Note: FDA advises consumers not to use kratom in general and OPMS Black Liquid specifically.
 - FDA: “...FDA continues to warn consumers not to use kratom because of the risk of serious adverse events, including liver toxicity, seizures, and substance use disorder (SUD)...”
 - FDA: “...The FDA is advising consumers not to consume OPMS Black Liquid Kratom, which is sold online and in some retail stores. OPMS Black Liquid Kratom has been linked to serious adverse health effects, including death...The product label for OPMS Black Liquid Kratom indicates the presence of kratom alkaloids, mitragynine and 7-hydroxymitragynine...”⁴⁴
 - Note: Multiple lawsuits have been filed over highly addictive nature of kratom extract products⁴⁵
 - DoD Prohibited Dietary Supplement: “...Service Members are prohibited from using any product containing kratom as it is on the DoD Prohibited Dietary Supplement Ingredients list...”⁴³
 - DoD Prohibited Dietary Supplement: “...Infants whose mothers use kratom during pregnancy also can become addicted, a condition known as kratom-associated neonatal abstinence syndrome...”⁴³

Synthetic Kratom Alkaloids

- **Fact: All retail chains sold multiple brands of 7-hydroxymitragynine (7-OH), like Opia and Hydroxie.**
 - Note: 7-hydroxymitragynine is a mu opioid receptor agonist, like morphine and codeine.^{42, 46}
 - Note: In animal studies, 7-OH has been found to be **10x more potent than morphine.**⁴⁷
 - Study: “...*In antinociception assays, (7-OH) exhibits ...tenfold greater potency than morphine...*”⁴⁷
 - Note: 7-hydroxymitragynine (7-OH) naturally occurs in kratom leaves but in extremely low concentrations, typically below the amount needed to reliably quantify it (<0.001%). However, concentrated 7-OH (synthetically created and/or processed) is used to create consumable kratom products with very high potency and stronger opioid-like effects.
 - Study: “...[7-OH] has shown indicators of opioid-induced addiction potential... 7HMG has been reported as one of the kratom alkaloids, concentrations of 7HMG in native kratom leaves were found to be below the lower limit of quantification (LLOQ, <0.001%) in multiple analytical studies...”³⁷
 - DoD Prohibited Dietary Supplement: “...*One potent opioid-like chemical, 7-hydroxymitragynine, is present naturally in kratom at very low levels, but some kratom products have been found to contain much higher levels of this chemical than occurs in kratom naturally...*”⁴³
- **Fact: All retail chains sold products in which 7-OH comprised 100% of the total alkaloid content.**
 - Note: Section 443.003, Health and Safety Code, prohibits the sale of products with a total 7-OH alkaloid content of more than 2%.⁴⁸
- **Fact: All retail chains sold multiple brands of pseudoindoxyl (Pseudo) tablets, like Opia and Hydroxie.**
 - Note: Pseudoindoxyl is a mu opioid receptor agonist, similar to morphine and codeine.⁴⁹
 - Note: Pseudoindoxyl is a metabolite of 7-hydroxymitragynine and not detectable in kratom plant
 - WHO Report: “*A third alkaloid, mitragynine pseudoindoxyl, is not found in the plant but is a metabolite of 7-hydroxymitragynine...*”⁵⁰
- **Fact: All retail chains sold multiple products containing other synthetic compounds, including 8-hydroxymitragynine (8-OH), 11-hydroxymitragynine (11-OH) and red-hydroxymitragynine (red-OH).**
 - Note: There are strong similarities between synthetic cannabinoids, such as delta-8 THC, sold to circumvent hemp laws regarding delta-9 THC, and synthetic kratom alkaloids, such as 8-OH, sold to circumvent kratom laws regarding 7-OH.
- **Fact: Section 481.002, Health and Safety Code, defines opiate as “...a substance that has an addiction-forming or addiction-sustaining liability similar to morphine or is capable of conversion into a drug having addiction-forming or addiction-sustaining liability...”**⁵¹
 - Synthetic kratom alkaloids with addiction potential similar to morphine likely meet the definition of "opiates" under Texas law.

Child Attractive Products

- **Fact: Some chains sold food containing synthetic kratom alkaloids in forms that could appeal to children including Ohmz Conez by Exodus, manufactured to look like flavored ice cream cones.**
 - Note: Ohmz Conez are available in three main **ice cream flavors: pistachio** (7-OH & pseudoindoxyl), **vanilla bean** (7-OH, 8-OH & red-OH), and **strawberry** (7-OH).

Neurotoxins

(Amanita Muscaria Mushrooms, Mad Honey)

Psychedelic Mushroom Products (“Magic Mushrooms”)

- **Fact: All retail chains sold food products marketed as containing “magic mushrooms.”**
- **Fact: All retail chains sold food products marketed as containing Amanita muscaria mushrooms.**
- **Fact: All retail chains sold food products marketed as containing Amanita muscaria mushrooms and intoxicating cannabinoids (e.g., THC or HHC).**
 - FDA: “...*Amanita muscaria, its extracts, and certain constituents (muscimol, ibotenic acid, and muscarine), when used or intended for use in conventional food, are unapproved food additives.* Food

containing such ingredients is adulterated under the Federal Food, Drug, and Cosmetic Act (FD&C Act) and are subject to enforcement action... ”⁵²

- FDA: “*A. muscaria* and its constituents have been used in foods intended to have hallucinogenic effects, sometimes marketed as ‘psychedelic edibles’, ‘legal psychedelic’ or ... ”⁵²
- FDA: “*Amanita muscaria*...is a toxic mushrooms species.... Consumption of *A. muscaria* is associated with adverse effects on the central nervous system (CNS), including hallucinations, drowsiness, and delirium, with reports of seizure, coma, and possible death in severe poisoning cases. The principle pharmacologically active constituents of *A. muscaria* with reported psychotropic effects include the isoxazole compounds ibotenic acid, muscimol, and muscarine... ”⁵³
- FDA: “...even greater concern if used as food ingredients ...A query of the National Poison Data System reported hundreds of calls in the last year associated with consumption of *A. muscaria*, its extracts, muscimol, ibotenic acid or muscarine, reporting similar symptoms as well as cardiovascular effects, hallucinations, respiratory depression, and even death... ”⁵²
- DoD Prohibited Dietary Supplement: “...*Amanita muscaria* is on the DoD Prohibited Dietary Supplement Ingredients List, and is prohibited for use by Service Members.”⁵⁴
- **Fact: Some retail chains sold at-home, all-in-one, grow-it-yourself mushroom grow bags or boxes.**
 - Note: “...Our proprietary substrate blend is optimized for *cubensis* mushrooms... ”⁵⁵
 - Note: “...Inject your spores or liquid culture...wait until fruits form...harvest!...”
 - Note: *Cubensis* mushrooms, also known as *psilocybe cubensis*, are “magic mushrooms.”⁵⁶
 - Note: *Psilocybin* is a Texas Controlled Substance under Penalty Group 2. ⁵¹

Psychedelic Honey Products “Mad Honey”

- **Fact: All retail chains sold food products marketed as containing “mad honey”.**
 - Note: Mad honey is produced in Asia where bees collect pollen & nectar from grayanotoxin containing plants, thus producing honey containing grayanotoxins.⁵⁷
 - Note: Grayanotoxins are highly toxic diterpenoids (i.e. neurotoxins) found in several plant species.⁵⁸
 - FDA: “...Eating honey with a high amount of this toxin can lead to “mad honey” poisoning, with symptoms such as nausea, vomiting or dizziness... ”⁵⁹
 - Study: “...Grayanotoxin/mad honey poisoning is a little known, but well studied, cholinergic toxidrome resulting in incapacitating and, sometimes, life-threatening bradycardia, hypotension, and altered mental status. Complete heart blocks occur in a significant fraction of patients... ”⁶⁰

E-Cigarettes

(THC, 7-OH, Mushrooms + Combinations)

E-Cigarette Products (other than tobacco)

- **Fact: All retail chains sold e-cigarette products that contained various synthetic cannabinoids.**
 - Note: Synthetic cannabinoids sold in e-cigarettes by retail chains included HHC, THC-P, THCP-O, THC-H, THC-B, THC-JD, 11-hydroxy-THC, THC-A, HHC-P, THC-P2.
- **Fact: Most retail chains sold e-cigarette products that contained THC-O.**
 - Note: THC-O vapes can create ketene: a highly poisonous gas that is extremely toxic to lungs; inhalation can cause acute respiratory failure.⁶¹
- **Fact: Some retail chains sold e-cigarette products that contained synthetic kratom alkaloids.**
 - Note: These products raise significant concerns regarding risks related to rapid-onset effects, severe respiratory injury specific to inhalation exposure, increased potential for addiction, unpredictable adverse reactions due to unknown potency and contaminants, and the absence of any safety studies or regulatory oversight on the inhalation of synthetic kratom alkaloids – compared to oral consumption.
- **Fact: Some retail chains sold e-cigarette products that contained mushrooms and mushroom alkaloids.**
 - Note: Some retailers sold e-cigarette products that contained *Amanita muscaria* mushrooms.

- Note: Some retailers sold e-cigarette products that contained a combination of substances, such as Don't Trip by Dozo: Mushroom Extract + THCa (THCa, Muscimol, Muscarine, THC-P).
- Note: Inhalation of mushroom alkaloids raises serious concerns due to rapid-onset effects, heightened risks of acute toxicity, respiratory injury from inhaled fungal compounds and contaminants, unpredictable potency of alkaloids, and a lack of comprehensive safety research/regulatory oversight.

Inhalants

(Nitrous Oxide “Whippets”, Nitrite Products “Poppers”)

Nitrous Oxide Products “Whippets” / “Whippits”

- **Fact: All retail chains sold multiple brands of nitrous oxide including Whip-It!, Looper, and Space Gas.**
 - Note: “Whippets” is named for the whipped-cream aerosol canisters (nitrous oxide) that people inhale to get “high.” The nitrous oxide affects the body’s central nervous system by cutting off oxygen to the brain, known as hypoxia, causing brain cells to die. It can cause psychosis and can be lethal.⁶²
 - Note: Nitrous oxide is legal because it has legitimate uses, such as in cooking and medical industries. Despite the lack of such industries within smoke shops, such retailers have made nitrous oxide available for purchase, often with labels stating, “For Food Additive Only” / “For Food Purposes Only.” This labeling serves as a legal cover. However, in practice, **these products are clearly intended for inhalation** – not food preparation – as **they are sold alongside “crackers”, which are tools specifically designed to release and inhale the gas, not to dispense it for culinary use.**
 - Note: The author was offered to try using a “cracker” to inhale nitrous oxide inside one of the retail stores being surveyed.
 - FDA: “...These products are marketed as both unflavored and flavored nitrous oxide canisters and are sold as a food processing propellant for whipped cream and culinary food use. Intentional misuse or inhalation of contents can lead to serious adverse health events, including death...”⁶³
 - FDA: “...These products are being sold online and at retailers, including, but not limited to: Amazon.com, Ebay, Walmart, and at smoke/vape shops and gas stations...”⁶³
 - Study: “...The recreational misuse of nitrous oxide has been increasing globally, with reports showing a rise from 10 % in 2015 to 20 % in 2021. In the United States, misuse has been steadily rising since 2010, and from 2023 to 2024, there was a 58 % increase in intentional nitrous oxide exposure reports... **including oxygen deprivation, neurological damage, and even death**...”⁶⁴
 - Study: “...In recent years, recreational abuse of N2O has become increasingly common, especially among young adults and adolescents, but many of them lack awareness of the possible side effects associated with this drug. N2O abuse **can damage multiple systems, especially the nervous system, but the exact mechanism of N2O toxicity remains controversial.... Long-term abuse without timely treatment will eventually lead to irreversible neurological damage**...”⁶⁵
 - Note: According to Texas Law, nitrous oxide is not considered a volatile chemical under Chapter 485, Health and Safety Code if it is a “...food drug, or cosmetic subject to Chapter 431 or to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.) ...”⁶⁶
- **Fact: Chapter 445, Health and Safety Code states it is a Class A misdemeanor if a person in the State of Texas knowingly possesses, with intent to sell, inhalant paraphernalia, and knows that the person who receives the paraphernalia intends to use it to introduce into the human body a volatile chemical.**⁶⁷
 - Stores surveyed sold inhalant paraphernalia (i.e., “crackers”) alongside nitrous oxide products.
- **Fact: At least forty-five states have enacted laws to restrict the recreational use and sale of inhalants such as nitrous oxide and nitrite poppers.**⁶⁸

Nitrite Products “Poppers”

- **Fact: Most retail chains sold multiple brands of poppers including Rush, Super Rush and Man Scent.**

- Note: Nitrite poppers are an alkyl nitrite-based inhalant that is sold in small bottles, ranging from 10mL to 40mL, appearing similar to energy shots. They are used by consumer for recreational use or sexual enhancement and are typically sold at adult novelty stores and smoke shops.⁶⁹
- Note: While such products are illegal for recreational use, retail stores claim there is a loophole in U.S. law for “commercial purposes.” Thus, these products are label as “nail polish remover”, “leather cleaner” or “liquid incense” in attempts to circumvent federal and state law.⁷⁰
 - Labels claiming these are “nail polish remover” are undermined by the fact that these products: (a) Don’t work as nail polish remover, (b) contain alkyl nitrites which are vasodilators, not solvents; true nail polish remover contains acetone, ethyl acetate, or isopropyl alcohol.
 - Products are also branded with names like “Super Rush” and “Jungle Juice” which clearly reference their inhalant effects and aromatic appeal. Legitimate nail polish remover brand names include Cutex, Sally Hansen, and Equate.
 - Products contain plastic beads within the liquid which restore inhalant potency by shaking it. These are only useful if the product is being sniffed, not used cosmetically.
 - These products are sold in stores that otherwise exclusively sell psychoactive substances and other drug use paraphernalia.
- Note: **At least forty-five states** have enacted laws to restrict the recreational use and sale of inhalants such as nitrous oxide and nitrite “poppers.”⁶⁸
- FDA: *“The FDA advises consumers not to purchase or use nitrite “poppers” because these products can result in serious adverse health effects, including death, when ingested or inhaled. “Poppers,” which are sold online or at adult novelty stores, may be marketed as nail polish removers but are being ingested or inhaled for recreational use or to enhance sexual experiences”*⁶⁹
- FDA: *“A single mistake can prove fatal. We continue to receive reports of people dying or being severely injured after consuming poppers that resemble, and often mistaken for, popular energy shots. Drinking or inhaling poppers seriously jeopardizes your health”*⁷¹
- NBC News: *“...For a study published in Clinical Toxicology on Wednesday, researchers visited 98 smoke shops, weed dispensaries and sex shops within the jurisdiction of a New York City poison center that had noted an increase in reports of poppers poisoning...”*⁷²

Drug Test Falsification Kits

(Detox Products, Synthetic Urine, Prosthetic Penis)

Drug Detox Products

- **Fact: All retail chains sold detox products marketed for full body detoxication (urine, saliva, blood).**
- **Fact: All retail chains sold detox shampoos marketed as able to cleanse or strip hair follicles.**
- **Fact: Some retail chains sold detox mouth washes marketed as able to cleanse or dilute saliva.**

Drug Test Falsification Products

- **Fact: All retail chains sold bags or pouches marketed as containing “novelty” synthetic urine.**
 - Note: Such synthetic urine products often come with a heating pad, which is attached to the urine bottle and can “...*maintain the temperature for up to five hours...*”
 - Note: Products include Quick Fix Plus and Monkey Whizz Serious Monkey Bizzness.
 - Note: The websites for such products also provide links, and sometimes videos, on how to use such products “aside from legal purposes” and “at the workplace.”
- **Fact: All retail chains sold fake penis products, specifically marketed as strap-on urinating devices with a natural lifelike prosthetic penis and concealed bladders for synthetic urine.**
 - Note: Such products come with a sample of imitation urine “if needed”, multiple heating pads, a temperature strip and a calibrated syringe; marketed as undetectable and for different skin tone colors.
 - Note: Products include Monkey Dong Strap-On Urinating Device and The Whizzinator Touch.

- Note: Section 481.133(a), Health and Safety Code, states “...a person commits an offense if the person knowingly or intentionally uses or possesses with intent to use any substance or device designed to falsify drug test results...”⁷³
- Note: Section 481.133(b), Health and Safety Code, states “...a person commits an offense if the person knowingly or intentionally delivers, possesses with intent to deliver, or manufactures with intent to deliver a substance or device designed to falsify drug test results...”⁷³
- Note: These products are often labeled as “novelties” as an attempt to circumvent these laws; however, they are clearly marketed and sold to facilitate the falsification of drug testing results as supported by their frequently sale in the same stores that sell intoxicating and illegal substances, as well as related features including heating pads and temperature strips that serve no legitimate novelty purpose. Finally, the products come with clear use instructions as well as “.one sample of imitation urine (if needed)...” as well as videos describing the product as “*Great for the Workplace.*”⁷⁴

Drug Paraphernalia (Bongs, Pipes, Rigs, etc.)

Drug Paraphernalia Products

- **Fact: All retail chains sold a variety of glassware for using marijuana and hash oil.**
 - Note: Products include bongs, rigs, hand pipes, water pipes, bowls, and nectar collectors.

Drug Concealment Devices

- **Fact: Most retail chains sold a variety of concealment devices intended to hide narcotics.**
 - Note: Products include equipment that can be used at home, in a vehicle, on a person or on the go, including fake canned goods, chip bags, soda cans, metal screw/bolt, etc.

Drug Rolling Products

- **Fact: All retail chains sold a variety of products intended to facilitate the rolling of a marijuana joint.**
 - Note: Products include rolling papers, pre-rolled cones, wraps, and rolling trays.

Adult Paraphernalia & Supplements (Dildos, Vibrators, Male/Female Enhancement, etc.)

Adult Paraphernalia Products

- **Fact: All retail chains sold a variety of adult products including dildos, vibrators, or other sex toys.**
- **Fact: Some retail chains sold sexual lubricants marketed as infused with delta-8 THC.**

Adult Supplement Products

- **Fact: All retail chains sold a variety of adult supplements intended for sexual enhancement.**
 - Note: Products include Pink Pussycat, Kingdom Honey Royal Honey VIP, The Goat, etc.
 - FDA: “...***The Food and Drug Administration is advising consumers not to purchase or use Pink Pussycat, a product promoted and sold for sexual enhancement on various websites... FDA laboratory analysis confirmed that Pink Pussycat contains sildenafil, the active ingredient in the FDA-approved prescription drug Viagra, used to treat erectile dysfunction. FDA’s approval of Viagra is restricted to use under the supervision of a licensed health care professional...***”⁷⁵
 - FDA: “...***The Food and Drug Administration is advising consumers not to purchase or use Kingdom Honey Royal Honey VIP... FDA laboratory analysis confirmed that Kingdom Honey Royal Honey VIP contains sildenafil, the active ingredient in the FDA-approved prescription drug Viagra, used to treat erectile dysfunction. FDA approval of Viagra is restricted to use under the supervision of a licensed health care professional...***”⁷⁶

- FDA: “...*The Food and Drug Administration is advising consumers not to purchase or use The Goat, a product promoted and sold for sexual enhancement on various websites and possibly in some retail stores. FDA laboratory analysis confirmed that The Goat contains sildenafil not listed on the product label. Sildenafil is the active ingredient in the FDA-approved prescription drug Viagra, used to treat erectile dysfunction. FDA approval of Viagra is restricted to use under the supervision of a licensed health care professional...*”⁷⁷

Other Substances

Blue Lotus Products

- **Fact: Many retail chains sold food products containing Egyptian blue lotus, a psychoactive plant.**
 - Study: “...*Plant extracts and other novel psychoactives can be ingested, vaped, injected, or insufflated. This includes products such as extracts from the blue lotus flower (Nymphaea caerulea), which is known to produce euphoria and hallucinations at high doses...*”⁷⁸
 - DoD Prohibited Dietary Supplement: “...*Blue lotus is on the DoD Prohibited Dietary Supplement Ingredients List, and is prohibited for use by Service Members...Several active-duty Service Members have reported to an emergency room with symptoms of paranoia, anxiety, slurred speech, decreased responsiveness, "bizarre behavior," chest pain, rapid heartbeat, and even seizure after using...*”⁷⁹

Substances Manufacturing & Processing Illicit Drugs

- **Fact: Some retail chains sold pure substances “For Scientific and Laboratory Use”, such as Lidocaine.**
 - Note: Lidocaine HCI can be used to manufacture, dilute and cut Schedule I substances, such as heroin, cocaine, methamphetamine and MDMA (ecstasy).^{80,81,82}
- **Fact: Some retail chains sold pure substances “For Manufacturing Use”, such as Lactose and Mannitol.**
 - Note: Lactose and Mannitol can be used to manufacture, dilute and cut Schedule I substances, such as heroin, cocaine, methamphetamine and MDMA (ecstasy).^{83,84,85}

VIII. CONCLUSION

This investigation revealed that the largest retail chains in Texas are openly selling a wide array of hazardous and often illicit substances, including products that have been explicitly banned or restricted under state and federal laws, considered adulterated under the FD&C Act, deemed unsafe by the FDA, or explicitly banned for such use under Texas law. These include THC edibles and vapes far exceeding legal potency limits, THC edibles imported into Texas, THC edibles containing ingredients that are Schedule I Controlled Substances, unapproved drug products such as tianeptine and kratom extracts, and deceptively labeled inhalants like nitrous oxide and nitrite poppers. Retailers also engaged in high-risk sales practices – offering free samples of intoxicants, failing to check identification, and selling near schools – practices that mirror known tactics in illicit drug distribution and heighten the risk of youth initiation and drug dependence.

Despite clear prohibitions in both federal and Texas law, regulatory frameworks have proven insufficient to prevent the sale and marketing of these substances. The findings suggest that the issue is not limited to fringe operators but is endemic to the business model of the largest industry players. Without urgent and decisive legislative action – particularly through statewide bans on unapproved intoxicants and stronger enforcement mechanisms – Texas will remain a central hub for the sale of high-potency, illicit substances advertised as “legal products.” This report underscores the urgent need for policymakers to move beyond regulatory patchwork and toward clear, enforceable prohibitions that protect public health and safety.

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