



# IMPAIRED DRIVING

*Task Force Newsletter*



**Save a Life™**  
Texas Department of Transportation

## The Rise of Delta-8 THC and the Need for Regulation

**TETRAHYDROCANNABINOL (THC)** is the psychoactive substance found in the cannabis plant. It is the chemical compound that creates the impairing effect associated with using the substance. Most of us think of delta-9 THC when we consider tetrahydrocannabinol, but there are in fact other cannabinoids that exist and cause similar effects for the user, such as delta-8 THC. The popularity of delta-8 THC is rapidly growing, and these products are prominently displayed in CBD and vape shops throughout Texas—often with no age restrictions or warning labels. Since making its way to the marketplace, delta-8 infused products have stirred a great deal of confusion, particularly regarding the products legality.

The 2018 Farm Bill legalized the hemp plant for agriculture. Its passage allows for the industrial production of hemp, defined as the “cannabis sativa plant with a delta-9 THC concentration of not more than 0.3% dry weight” (Congressional Research Service, 2019). Since the language in the law only specifically listed delta-9 THC, it paved the way for interpretation that “cousin” cannabinoids are legal.

CBD businesses and cannabis industry attorneys argue that THC isomers occur naturally in the hemp plant. To some extent that is true. However, they naturally occur in extremely small doses, making them uneconomical to extract in quantities that would be profitable. Instead, the industry’s solution to this challenge is to chemically derive delta-8 THC from CBD oil, which is abundant in the hemp plant. This chemical change in composition has led policy makers to label them, “synthetically derived” tetrahydrocannabinols.

What is the legal status of these impairing substances? According to the Controlled Substance Analogue Act – 21 US Code §813, “a controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in Schedule I” (United States Code, 2020). The Drug Enforcement Administration (DEA) has issued an Interim Final Rule stating, “For all synthetically derived tetrahydrocannabinols, the concentration of



*Flaming chips coated with 250 MG of Delta 8.*

Δ9 – THC is not a determining factor in whether the material is a controlled substance. All synthetically derived tetrahydrocannabinols remain schedule I controlled substances” (DEA, 2020). Delta-8 is also included in the DEA’s “List of Controlled Substances,” under tetrahydrocannabinols (DEA, 2021).

As of early August 2021, twenty-three states have addressed the production and sales of delta-8 products. Of those states, seventeen have strictly outlawed production and sale, four are considering legislative bans or regulatory clarification, and two states have opted to regulate manufacturing and sales by state licensed facilities. It is important to note that eleven of these states have legal recreational cannabis industries and seven of them have medicinal cannabis programs. The Washington State Liquor & Cannabis Board (LCB) stated, “**Health implications related to compounds other than delta9 THC and CBD added to marijuana products...are unknown and could**

*Continued on Page 2*

### *The Rise of Delta-8 THC and the Need for Regulation Continued from Page 1*

**be harmful.** For these reasons, delta-8 THC, as well as derivatives, extracts, cannabinoids, isomers, and CBD isolate from hemp or other sources that are genetically or chemically altered into compounds may not be produced or processed in LCB licensed facilities and may not be sold in licensed marijuana retail stores” (LCB, 2021).

Where do we stand in Texas? The Texas 87th Legislative Session attempted to address the issue of delta-8 THC and future synthetically derived cannabinoids through House Bill (HB) 3948 and an amendment to HB 2593. Both bills died in committee, effectively making no legislative changes to the regulation of delta-8 THC products. However, The Texas Department of State Health Services (DSHS) is the regulatory authority for consumable hemp products and the Commissioner of Health has issued a decision that states, “Multiple tetrahydrocannabinol isomers and variants may have pharmacological or psychoactive qualities.” This decision by Dr. John Hellerstedt was brought before the Texas legislature in testimony by Stephen Pahl, Associate Commissioner for Consumer Protection. Mr. Pahl, stated the agency position is that delta-8 is a Schedule I Controlled Substance, making it illegal to possess or use in the state of Texas (Texas Senate, 2021).

Despite the positions of the DEA and Texas DSHS, delta-8 THC products continue to be sold at CBD retailers in Texas. Delta-8 infused products are readily available in communities around the state and can be purchased in a variety of ingestion methods (i.e. vape, smokable flower, tinctures, and edibles). Furthermore, delta-8 infused products can be sold without being properly tested and regulated. This causes concern that the products could be dangerous to consumers. What is known is that



*Candy ropes contain 600mg Delta 8 THC.*

the delta-8 THC isomer is an impairing substance, which when used irresponsibly, presents a danger to our roadways.

Confusion over the legality of delta-8 THC is allowing CBD manufacturers to sell these products without the same guidance and regulation that is required of the cannabis industry (FOCUS, 2021). Delta-8 THC products do not have to be sold in child proof containers, nor are they prohibited from producing packaging that could be attractive to minors. As a result, CBD stores are selling products like, “Weedos, Dank Gummies, Cannabanna Sours,” and even slushie drinks. Most packaging does not contain warning labels such as risk of impairment, advisory not to drive or use machinery while using the product or contain universal symbols labeling it as a marijuana product. There are also no age restrictions on the purchase of CBD products in the state of Texas.

There will be unintended consequences due to the lack of regulation regarding delta-8 THC products. One possible consequence is the accessibility of an impairing substance to minors. This should be of particular concern to substance use prevention efforts aimed at youth and teen driver safety programs. Another potential consequence is the lack of warning labels stating that the product causes impairment. This may increase the number of impaired drivers on Texas roadways. As traffic safety professionals, it is important to educate partners, stakeholders, and communities about the accessibility and dangers of delta-8 THC and the products’ impairing properties. It is equally important that Texas considers regulation of delta-8 THC and other impairing

cannabinoid isomers (i.e., delta-10 THC) to ensure public safety and user responsibly.

Congressional Research Services. (2019, February 22). *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*. CRS Reports. <https://crsreports.congress.gov/product/pdf/R/R45525>

United States Code. (2020, January 24). 21 U.S.C. 813 – *Treatment of controlled substance analogues*. GovInfo. <https://www.govinfo.gov/content/pkg/USCODE-2019-title21/pdf/USCODE-2019-title21-chap13-subchapl-partB-sec813.pdf>

Drug Enforcement Administration, Diversion Control Division. (2020, August 20). *DEA Final Interim Final Rule*. DEA Diversion. [https://www.deadiversion.usdoj.gov/fed\\_regs/rules/2020/fr0821.htm](https://www.deadiversion.usdoj.gov/fed_regs/rules/2020/fr0821.htm)

Drug Enforcement Administration, Diversion Control Division. (2021, August 27). *Controlled Substances*. [https://www.deadiversion.usdoj.gov/schedules/orangebook/c\\_cs\\_alpha.pdf](https://www.deadiversion.usdoj.gov/schedules/orangebook/c_cs_alpha.pdf)

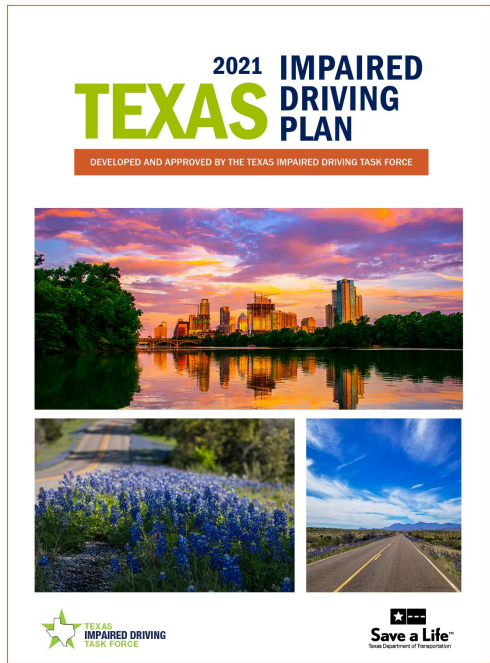
Washington State Liquor & Cannabis Board. (2021, April 28). *Notice of Adoption of a Policy Statement*. <https://lcb.wa.gov/sites/default/files/publications/rules/Statements/Conformed%20THC%20Isomers%20Policy%20Statement%2004282021.pdf>

The Texas Senate. (2021, May 18). *Senate Committee on Water, Agriculture & Rural Affairs HB 3948 (Part II 1:17 min. mark)*. [https://tlcsenate.granicus.com/MediaPlayer.php?view\\_id=49&clip\\_id=16084](https://tlcsenate.granicus.com/MediaPlayer.php?view_id=49&clip_id=16084)

Foundation of Cannabis Unified Standards. (2021, March 26). *Smoke and Mirrors: Delta-8 Is Not Legal*. FOCUS. <https://www.focusstandards.org/smoke-and-mirrors-delta-8-is-not-legal/>



## RECENTLY PUBLISHED RESOURCES



- [World Drug Report 2021 – Drug Market Trends: Cannabis & Opioids](#)
- [Opportunities for Research on Transportation and Equity](#)
- [2021 Texas Impaired Driving Plan](#)
- [Impaired Driving State Landscape, Region 6](#)

NOMINATIONS!



## 2022 Texas Impaired Driving Safety Award Nominations

Nominations for the 2022 Texas Impaired Driving Safety Awards are open! This is a competitive awarding process meant to honor, celebrate, and encourage those individuals/organizations who go “above and beyond” in support of the mission to eliminate impaired driving in Texas. The award recipients will be recognized at the 2022 Texas Impaired Driving Forum.

Please help us recognize outstanding organizations/individuals by [nominating them](#) today.

**Nomination deadline is extended to September 30, 2021.**

Questions can be directed to [c-adams@tti.tamu.edu](mailto:c-adams@tti.tamu.edu) or [e-shields@tti.tamu.edu](mailto:e-shields@tti.tamu.edu).



### Please Welcome Our New Members:

**Sherri Robelia**  
Behavioral Traffic Safety  
Program Manager, Texas  
Department of Transportation

**Dannell Thomas**  
Safety Education and Training  
Specialist, Education Service  
Center–Region 6

**Liz Wilde**  
Account Director–Creative  
Agency, Sherry Matthews  
Group

**Cindy Leonard**  
Senior Program Manager,  
National Safety Council

WELCOME  
ABOARD

## RECENT NEWS



## Texas News

- [Texas ranked 4th worst state for drunk driving](#)
- [News Study Shows Uber Has Landed in Houston, Followed by a Decrease in Drunk Driving Injuries](#)
- [Interstate 45 is the Most Dangerous Road in the U.S., New Study Finds](#)

## National News

- [Local Law Enforcement Agencies on the Lookout for Drunk and Drugged Drivers in August](#)
- [Drunk-Driver Detectors for Cars Part of Infrastructure Bill](#)
- [Responsibility.org, Traffic Safety Leaders Form National Alliance to Stop Impaired Driving, Convene Experts at Conference](#)



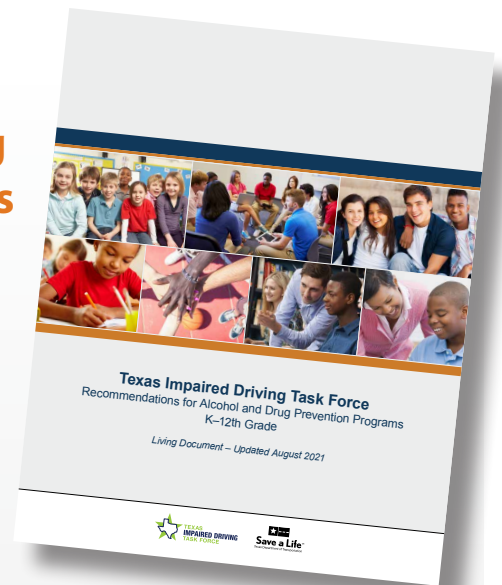
## Recommendations for Alcohol and Drug Prevention Programs

### Learn about school-based alcohol and drug prevention programs!

The updated 2021 TxIDTF Recommendations for Alcohol and Drug Prevention Programs, K-12 Grades is complete! The updated version of the reference book includes new evidence-based and TxDOT-funded programs, as well as content updates to existing programs. The purpose of this reference book is to provide Texas K-12th grades with current, impaired driving information for inclusion in health and other curriculum.

This reference book provides an overview of alcohol and drug prevention programs that vary in cost, time, and materials so that you can select the program that is best suited for the needs of your students, staff, and schools. Additionally, a condensed version of the reference book is also available, which gives a concise overview of each program.

Access these great resources on the Texas Impaired Driving Task Force website here: [www.texasimpaireddrivingtaskforce.org/referencebook](http://www.texasimpaireddrivingtaskforce.org/referencebook)



## RECENTLY PUBLISHED ABSTRACTS AND STUDIES

- [Evaluating 24/7 Sobriety Program Participant Reoffense Risk](#)
- [Alcohol, Marijuana, And Nicotine Use As Predictors Of Impaired Driving And Riding With An Impaired Driver Among College Students Who Engage In Polysubstance Use](#)
- [Ridesharing Services May Reduce Alcohol-Associated Car Crashes](#)
- [Convicted DWI Offenders: Comparing Alcohol Use Before And After The Pandemic Outbreak](#)
- [Cannabis Use Among Mental Health Professionals: A Qualitative Study of Cannabis Related Risk Perceptions](#)
- [Driving Under the Influence of Prescribed Medication](#)





**September**

- [FRIDAY/ADAPT: Focus on Reducing Impaired Driving Among Youth \(FRIDAY\)](#)  
September 17 | Missouri City, Texas
- [MADD: North Texas Walk like MADD](#)  
September 25 | Toyota Music Factory
- [MADD: Harris/Montgomery Walk like MADD](#)  
September 25 | Champion Forest Baptist Church – Jersey Village
- [MADD: Northeast Texas Walk like MADD](#)  
September 25 | Shannon Oaks Church

**October**

- [TxIDTF: Fall TxIDTF Meeting](#)  
October 14 | Virtual
- [MADD: Central Texas Walk like MADD](#)  
October 10 | Old Settlers Park at Palm Valley
- [FRIDAY/ADAPT: Focus on Reducing Impaired Driving Among Youth \(FRIDAY\)](#)  
October 11 | Levelland, Texas
- [RED Program](#)  
October 16 | TAMU AgriLife Extension Building  
*Please email Cindy Kovar at [cmkovar@ag.tamu.edu](mailto:cmkovar@ag.tamu.edu) to register*
- [ODC: Drug Impairment Training for Texas Employers \(DITTE\)](#)  
October 21 | Virtual
- [TxSFST: 8-HR SFST Refresher Course](#)  
October 22 | Grand Prairie, Texas
- [TxSFST: 8-HR SFST Refresher Course](#)  
October 22 | Hempstead, Texas
- [MADD: San Antonio Walk like MADD](#)  
October 23 | Eisenhower Park

- [RED Program](#)  
October 25 | TAMU AgriLife Extension Building  
*Please email Cindy Kovar at [cmkovar@ag.tamu.edu](mailto:cmkovar@ag.tamu.edu) to register*
- [FRIDAY/ADAPT: Focus on Reducing Impaired Driving Among Youth \(FRIDAY\)](#)  
October 26 | Rancho Viejo, Texas
- [RED Program](#)  
October 30 | TAMU AgriLife Extension Building  
*Please email Cindy Kovar at [cmkovar@ag.tamu.edu](mailto:cmkovar@ag.tamu.edu) to register*

**December**

- [FRIDAY/ADAPT: Disturbing Trends 2-HR](#)  
December 9 | Midland, Texas
- [ODC: Impaired Driving, Emerging Trends and the Occupational Arena](#)  
December 9 | Virtual
- [MADD: 2021 Austin Jingle Bell 5k Benefiting MADD](#)  
December 12 | Austin, Texas
- [TxSFST: 8-HR SFST Refresher Course](#)  
December 14 | Deer Park, Texas

**NEWSLETTER ADDITIONS**



If you would you like to add anything to the next edition of the newsletter, please send your information to [c-adams@tti.tamu.edu](mailto:c-adams@tti.tamu.edu) or [e-shields@tti.tamu.edu](mailto:e-shields@tti.tamu.edu) by January 1, 2022. Submissions are due the 1st of each newsletter month, and will be distributed next on January 15, 2022.