

CAUSE NO. D-1-GN-26-002511

TEXAS HEMP BUSINESS COUNCIL;
HEMP INDUSTRY & FARMERS OF
AMERICA; ALCHEMY TX
CONSULTING, LLC; A TO Z
IVESTMENTS AND WHOLESALE,
LLC; CPRT AND COMPANY, LLC dba
SERENITY ORGANICS; TEXAS
GREEN CRAFT, LLC aka TEXAKANA
ORGANICS; ELEVATE ONE TX, LLC
dba ELEVATE WELLNESS
DISPENSARY; CLUTCH CITY GAS
LLC dba TEXAS HIGH COUNCIL; and
SALGANIK SERVICES, INC.

Plaintiffs,

v.

TEXAS DEPARTMENT OF
STATE HEALTH SERVICES,
JENNIFER SHUFORD, in her official
capacity as Commissioner of
DSHS, TEXAS HEALTH AND
HUMAN SERVICES COMMISSION,
STEPHANIE MUTH, in her official
capacity as Executive Commissioner of
HHSC, and WARREN KENNETH
PAXTON JR., in his official capacity as
the Attorney General of Texas,

Defendants.

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

455TH JUDICIAL DISTRICT

ORDER GRANTING TEMPORARY INJUNCTION

On this day, the Court considered the First Amended Verified Application for Temporary Injunction requested by Plaintiffs Texas Hemp Business Council (“THBC”), Hemp Industry & Farmers of America (“HIFA”), Alchemy TX Consulting, LLC (“Alchemy”), A To Z Ivestments and Wholesale, LLC operating

under the assumed name Burners – Vape, Smoke, and Herb (“Burners”), CPRT and Company, LLC dba Serenity Organics – Your CBD Apothecary (“Serenity Organics”), Texas Green Craft, LLC aka TexaKana Organics (“TexaKana”), Elevate One TX, LLC dba Elevate Wellness Dispensary; Clutch City Gas LLC dba Texas High Council; and Salganik Services, Inc. (collectively, “Plaintiffs”).

Having considered the pleadings, evidence, arguments of counsel, and applicable law, the Court finds the application should be **GRANTED**.

I. FINDINGS

The Court finds as follows:

1. The Court has subject-matter jurisdiction over this action pursuant to Texas Government Code § 2001.038, which authorizes suits to determine the validity or applicability of an agency rule when its application interferes with or impairs a plaintiff’s legal rights and waives sovereign immunity for such claims. The Court also has jurisdiction to grant prospective injunctive relief to restrain ultra vires conduct by state officials acting without legal authority or in conflict with governing statutes. *See City of El Paso v. Heinrich*, 284 S.W.3d 366, 372–76 (Tex. 2009); *Hensley v. State Comm’n on Judicial Conduct*, 692 S.W.3d 184, 205 (Tex. 2024). The Court further has jurisdiction to enjoin Defendants based on Plaintiffs’ constitutional claims under Article V, § 8 of the Texas Constitution. *Patel v. Tex. Dep’t of Licensing & Regulation*, 469 S.W.3d 69, 76 (Tex. 2015); *Klumb v. Houston*

Mun. Emps. Pension Sys., 458 S.W.3d 1, 13 (Tex. 2015).

A. Probable Right to Relief

2. Plaintiffs have pleaded valid and legally cognizable causes of action under Texas law for ultra vires conduct, violations of the Texas Constitution, and violations of the Administrative Procedure Act.

3. Plaintiffs have established a probable right to relief on the merits of their claims. As further explained below, the Court finds that the challenged provisions of 25 T.A.C. Chapter 300, which became effective on March 31, 2026, likely exceed the statutory rulemaking authority delegated to officials Muth and Shufford (“the Officials”) and are in conflict with governing statutes and laws, and that the challenged rules were adopted in violation of the Texas Administrative Procedure Act and the Texas Constitution, as pleaded by Plaintiffs.

4. First, Plaintiffs have demonstrated a probable right to relief on their ultra vires claims against the Officials.

a. The challenged rules that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.101(1), .101(25), .101(45), .301(a)(4), .301(b)(4), .302(b)(1), .302(c)(3), and .303(a) impose a “total delta-9 tetrahydrocannabinol (THC)” or “acceptable hemp THC level” compliance standard using decarboxylation or similar conversion-based testing methodologies on the commercial hemp sector (manufacturing, processing, distribution, transportation,

and retail sale), which differs from and is more restrictive than the actual delta-9 concentration standard (0.3% or less on a dry weight basis) mandated by the Legislature for commercial compliance under Texas Health and Safety Code Chapter 443, as incorporated into Texas's 2020 Approved Hemp Plan. The challenged rules apply the non-statutory compliance standard to restrict the manufacture, processing, transport, distribution, and retail sale of consumable hemp products, and to prohibit the transport of hemp plants and plant material intended for further processing. The Court finds that Plaintiffs have shown a substantial likelihood that these provisions are ultra vires.

b. The challenged rules that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.206(c) and .404 prohibit transport into Texas of hemp-derived materials if they exceed the administratively-defined new THC compliance standard (as described above), including materials intended solely for further processing into finished products that are lawful under the statutory actual delta-9 THC compliance standard. The Court finds that Plaintiffs have shown a substantial likelihood that these provisions are ultra vires.

c. The challenged rules that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.202(c) and .502(g) impose dramatically increased license and registration fees, ownership-change fees, and late renewal application fees on manufacturers, processors, distributors, and retailers of

consumable hemp products in Texas. The Court finds that Plaintiffs have shown a substantial likelihood that these provisions are ultra vires.

d. The challenged rule that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.601(b) imposes an escalating penalty structure in which “each day a violation continues or occurs counts as a separate violation when calculating an administrative penalty,” and provides no procedural mechanism for notice or an opportunity to cure, even if the violation was inadvertent or negligent. Texas Health & Safety Code § 443.201(b) provides that, “[t]he executive commissioner by rule must provide to a [CHP] retailer ... fair notice of a potential violation concerning [CHPs] sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.” More broadly, administrative enforcement mechanisms must be reasonable and not impose punitive measures without procedural protections. The Court finds that Plaintiffs have shown a substantial likelihood that this provision is ultra vires.

5. Second, Plaintiffs have demonstrated a probable right to relief on their three claims asserting violations of the Texas Constitution, as follows:

a. The challenged rules that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.202(c) and .502(g) impose dramatically increased license and registration fees, ownership-change fees, and late renewal application fees on manufacturers, processors, distributors, and retailers of

consumable hemp products in Texas. Plaintiffs have demonstrated a substantial likelihood that these fees operate as an occupation tax that the Administrative Defendants are not authorized to enact in violation of Tex. Const. art. VIII, § 1(c).

b. The challenged rule that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.601(b) imposes an escalating penalty structure in which “each day a violation continues or occurs counts as a separate violation when calculating an administrative penalty,” even for inadvertent or negligent violations. Plaintiffs have demonstrated a substantial likelihood that these provisions violate the prohibition against “excessive fines” under Tex. Const. art. I, § 13.

c. The challenged rule that took effect on March 31, 2026, under 25 Texas Administrative Code §§ 300.601(b) also fails to provide any procedural protections in the form of a notice or opportunity to cure. “No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.” Tex. Const. art. I, § 19. The constitution requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before the government imposes severe deprivations of protected interests. *Univ. of Tex. Med. Sch. at Hous. v. Than*, 901 S.W.2d 926, 930 (Tex. 1995). Based on the lack of procedural protections provided before the escalating penalty mechanism may be enforced under § 300.601(b), Plaintiffs have demonstrated a substantial likelihood that the rule violates the due course of law

provision under Tex. Const. art. I, § 19.

6. Plaintiffs have demonstrated a probable right to relief on their Texas Administrative Procedure Act (APA) claims. The evidence shows that the Administrative Defendants acknowledged that the rules would have significant economic effects, including adverse impacts on small businesses, but did not prepare the local employment impact statement required by Texas Government Code § 2001.022, nor did they attach such an analysis to the rulemaking notice as required by § 2001.024(a)(6). Defendants failed to substantially comply, as required by § 2001.035. The Court further finds that Plaintiffs have shown a substantial likelihood that the Administrative Defendants failed to meaningfully consider less burdensome alternatives as required by § 2006.002(c), and failed to provide a reasoned justification and fair response to comments raising significant statutory objections as required by § 2001.033, which again fails to substantially comply as required by § 2001.035. Based on these procedural deficiencies, Plaintiffs have demonstrated a substantial likelihood that all of the challenged rules are facially invalid, thereby providing an independent basis supporting Plaintiffs' probable right to relief.

7. Based on the foregoing, the Court finds that Plaintiffs have satisfied their burden to demonstrate a probable right to recovery on the merits of their claims.

B. Probable, Imminent, and Irreparable Injury

8. Plaintiffs have demonstrated a probable, imminent, and irreparable

injury in the absence of injunctive relief. The Court finds that the challenged rules, which took effect on March 31, 2026, impose immediate compliance obligations that materially alter the legal standards governing Plaintiffs' ongoing business operations.

9. As discussed in the above-findings, the evidence shows that the challenged provisions require Plaintiffs to alter their manufacturing, testing, sourcing, transport, distribution, and retail practices to comply with a non-statutory compliance standard and to incur significantly higher fees, and face escalating penalties, as conditions of continuing operations that are otherwise lawful under the governing statutes. The Court finds that Plaintiffs have shown that they began suffering harm under the challenged rules at the time of their effectiveness, and that such harm would have continued if not for entry of the TRO on April 10, 2026, including changes to existing operations, the removal or reformulation of products, modification of testing protocols, restructuring of supply chains, and resulting economic losses, increased expenses, and increased administrative and operational burdens.

10. The Court further finds that the challenged transport and testing provisions operate together to prevent manufacturers and processors from obtaining and using hemp plants and plant material necessary for manufacturing and processing within Texas. By conditioning both the transport of inputs and the

legality of finished products on a non-statutory compliance standard, the rules substantially foreclose the ordinary pathway by which hemp is manufactured and processed into consumable products under the preexisting statutory framework. As result, Plaintiffs engaged in manufacturing or processing are forced either to cease or significantly restrict such operations and/or to relocate those operations outside Texas, and Plaintiffs who are distributors or retailers dependent on those manufacturers or processors will suffer significant supply chain disruption, resulting in economic harm.

11. The Court also finds that the challenged fee provisions impose immediate and substantial financial burdens as a condition of continuing otherwise lawful participation in the market. These fees are required for licensure, registration, renewal, and ownership changes, and must be paid to avoid loss of the ability to operate. The evidence shows that these costs are significant and ongoing, and cannot be recovered through damages in light of sovereign immunity.

12. The Court further finds that Plaintiffs face an immediate risk of enforcement under the challenged rules, including administrative penalties, product detention or embargo, license or registration suspension or revocation, and civil enforcement actions. The rules provide for escalating penalties, including daily accrual of violations, which magnify the consequences of alleged noncompliance.

13. Based on the foregoing, the Court finds that Plaintiffs have established

a probable, imminent, and irreparable injury in the absence of injunctive relief.

C. No Adequate Remedy at Law

14. The Court finds that Plaintiffs have no adequate remedy at law. Plaintiffs are not entitled to seek monetary damages from the Defendants based on the pleaded causes of action. Instead, they are limited to equitable relief, including injunctive and declaratory relief.

15. Additionally, not all of the injuries described above are readily susceptible to calculation or compensation through monetary damages. The challenged rules require immediate and ongoing changes to Plaintiffs' business operations, including restructuring of supply chains, alteration of product lines, and modification of compliance systems. The resulting harms—such as loss of market access, disruption of established business relationships, and impairment of goodwill—are inherently difficult to quantify and cannot be fully remedied by an award of damages.

16. The Court further finds that Plaintiffs face ongoing compliance costs and financial burdens imposed as a condition of continuing lawful operations, including licensing and registration fees and other regulatory expenses. Such costs, once incurred, are not recoverable from Defendants due to sovereign immunity and therefore cannot be remedied through a legal action for damages.

17. The Court also finds that Plaintiffs seek to vindicate statutory and

constitutional limitations on Defendants’ authority. The loss of such rights, even for a limited period of time, constitutes irreparable harm that cannot be adequately remedied through monetary relief.

18. Based on the foregoing, the Court finds that Plaintiffs lack an adequate remedy at law.

D. Preservation of Status Quo

19. The Court finds that the purpose of a temporary injunction is to preserve the last, actual, peaceable, non-contested status that preceded the controversy. The Court further finds that the relevant status quo is the regulatory framework under which Plaintiffs previously operated, as established by the Texas Legislature in Texas Health and Safety Code Chapter 443, as incorporated to Texas’s 2020 Approved Hemp Plan, and as administered under the rules in 25 Texas Administrative Code chapter 300 that were effective prior to the March 31, 2026 date of the challenged rules.

20. The challenged rules materially alter that framework by imposing a non-statutory compliance standard and additional regulatory burdens not previously in effect. The relief granted herein preserves the status quo by maintaining the statutory regulatory scheme while the validity of the challenged rules is further adjudicated.

21. Because Plaintiffs do not challenge all of the new rules that were

adopted effective March 31, 2026, any provision not challenged in this lawsuit—including a handful of consumer safety regulations adopted under the new rules—will remain in full force and effect, and are not impacted by the relief awarded below.

E. Balance of Equities

22. The Court finds that the balance of equities weighs in favor of granting injunctive relief. Absent an injunction, Plaintiffs will suffer immediate and ongoing harm to their business operations, legal rights, and economic interests, as described above. These harms include disruption of established supply chains, loss of market access, impairment of goodwill and customer relationships, and the risk of significant compliance costs and enforcement consequences under rules that Plaintiffs have shown are likely invalid.

23. By contrast, temporarily enjoining enforcement of the challenged rules will not result in cognizable harm to Defendants. The relief granted herein preserves the regulatory framework established by the Legislature in Texas Health and Safety Code Chapter 443 while the legality of the challenged rules is adjudicated. The Court finds that Defendants retain the ability to enforce statutory requirements and rule provisions that are not challenged in this action, including those directed at consumer protection and public safety within the scope of their delegated authority.

24. The Court further finds that the requested relief is narrowly tailored to restrain only those provisions that Plaintiffs have shown are likely to exceed

statutory authority, conflict with governing law, or were adopted in violation of required APA procedures and/or constitutional protection. Maintaining the status quo pending final adjudication prevents the imposition of regulatory requirements that are likely unlawful, while preserving Defendants' ability to carry out their statutory duties.

25. Based on the foregoing, the Court finds that the balance of equities favors the issuance of a temporary injunction.

F. Public Interest

26. The Court finds that the relief granted herein does not impair the State's ability to enforce statutory requirements or rule provisions that fall within Defendants' delegated authority, including those directed at consumer protection and public safety. Rather, the injunction is limited to provisions that Plaintiffs have shown are likely unlawful, and therefore ensures that regulatory authority is exercised in a manner consistent with governing law.

27. Based on the foregoing, the Court finds that the public interest favors the issuance of a temporary injunction.

G. Scope of Relief

28. The Court further finds that the equities demonstrate that the benefits of the injunctive relief awarded should extend to all commercial participants in Texas's consumable hemp industry, which is within the scope of this Court's

discretionary, equitable jurisdiction. Tex. Const. art. V, § 8; Tex. Gov't Code §§ 21.001(a), 24.007(a), 24.008, 24.011; Tex. Civ. Prac. & Rem. Code § 65.011(5); *Campbell v. Wilder*, 487 S.W.3d 146, 153 (Tex. 2016). The Court finds that this scope of relief is warranted in this particular case for three, independent reasons.

29. First, it is necessary to afford complete relief to the named Plaintiffs. Because the 2019 Texas Farm Bill implemented a comprehensive statutory regime to support and regulate an integrated hemp industry from seed-to-sale (including farmers, manufacturers, processors, distributors, and retailers), it would be impossible to afford complete relief to the named Plaintiffs if only they were the only parties in the state allowed to operate under the previously-existing framework. Without the broader marketplace, there would be no “industry” in which they could continue to operate as they did before the challenged rules took effect.

30. Second, because Plaintiffs have demonstrated a substantial likelihood that the challenged rules are facially invalid (based on all three causes of action), enforcement of the challenged rules will result in an indivisible injury shared by all commercial participants of Texas’s consumable hemp industry. This is supported by the two associational groups who are Plaintiffs to this suit (the Texas Hemp Business Council and Hemp Industry & Farmers of America) and the evidence admitted through these Plaintiffs’ representatives regarding the broader harms being incurred by their members under the challenged rules.

31. Third, if the benefits of this injunction are limited to only the named Plaintiffs, it will result in a multiplicity of suits. At least two other lawsuits have already been filed in Travis County to challenge these rules, and the Court finds a substantial likelihood that several other affected businesses will file suit seeking the same relief if not covered by this injunction because, otherwise, they will suffer the same types of immediate and irreparable harm established by Plaintiffs. That would not support judicial economy, and it would require further time and resource of the Defendants to respond to these suits, which in turn is not good for the public fisc.

II. ORDER

IT IS THEREFORE ORDERED that Defendants, their officers, agents, servants, employees, and all persons acting in concert with them are TEMPORARILY ENJOINED as follows:

A. Total Delta-9 THC Compliance Framework

Defendants are hereby ENJOINED from enforcing or giving effect to 25 T.A.C. §§ 300.101(1), 301.101(25), 300.101(45), 300.301(a)(4), 300.301(b)(4), 300.302(b)(1), 300.302(c)(3), and 300.303, as adopted to take effect on March 31, 2026, insofar as those provisions require compliance with a “total delta-9 tetrahydrocannabinol (THC)” or “acceptable hemp THC level” standard using decarboxylation or similar conversion-based testing methodologies, to prohibit or restrict the commercial activities of manufacturing, processing, transporting,

distributing, possessing, or selling consumable hemp products.

B. Transport and Material Restrictions

Defendants are hereby ENJOINED from enforcing or giving effect to 25 T.A.C. §§ 300.206(c) and 300.404, as adopted to take effect on March 31, 2026, to prohibit or restrict the transport into Texas of hemp plants, hemp, or hemp-derived materials intended for further processing into consumable hemp products, including by conditioning such transport on compliance with the non-statutory THC standard enjoined by the foregoing paragraph.t

C. Fee Provisions

Defendants are hereby ENJOINED from enforcing or giving effect to 25 T.A.C. § 300.202(c), including subsections (c)(1), (c)(2)(A), and (c)(4), and 25 T.A.C. § 300.502(g), including subsections (g)(1) and (g)(2), as adopted to take effect on March 31, 2026, including by assessing, collecting, or requiring payment of the increased licensing, registration, ownership-change, and delinquency fees imposed by those provisions.

D. Penalty Framework

Defendants are hereby ENJOINED from enforcing or giving effect to 25 T.A.C. § 300.601(b), as adopted to take effect on March 31, 2026. including by treating each day a violation continues as a separate violation for purposes of administrative penalties, where such penalties are based on: (a) compliance with the non-statutory THC standard enjoined above; or (b) any conduct subject to the

notice-and-cure protections required by Tex. Health & Safety Code § 443.201(b)

E. Administrative and Civil Enforcement

Defendants are hereby ENJOINED from initiating, maintaining, or pursuing administrative or civil enforcement actions, including administrative penalties, product embargoes or detentions, license or registration suspension or revocation, or civil enforcement actions by the Attorney General, where such actions are, in whole or in part, based on or predicated upon the provisions enjoined above.

F. Scope of Relief

This injunction operates *in personam* against Defendants and those acting in concert with them. The relief granted herein prohibits prospective implementation or enforcement of the challenged rules, as enjoined above, against the named Plaintiffs including all members of THBC and HIFA, and against any other commercial participant in Texas's consumable hemp industry (meaning a person or entity operating or seeking to operate as a licensed or registered manufacturer, processor, distributor, or seller of consumable hemp products within the state), as is necessary to, afford complete relief to the named Plaintiffs, preserve the status quo across an industry that will suffer indivisible injury from the challenged rules, and prevent a multiplicity of suits.

This Order is narrowly tailored to enjoin only those provisions and enforcement actions that exceed statutory authority, conflict with governing law, or

were adopted in violation of the Texas Constitution or the Administrative Procedure Act, It does not enjoin enforcement of any rule provisions not challenged in this action.

III. BOND

It is FURTHER ORDERED that Plaintiffs shall post a bond in the amount of \$8,000.

IV. SETTING

It is FURTHER ORDERED that this temporary injunction shall stay in effect until the conclusion of the final trial of this case or further notice of the Court.

Final trial on the merits of this case is set for the 27th day of July, 2026 at 9:00 a.m. on the central docket for assignment to any available judge.

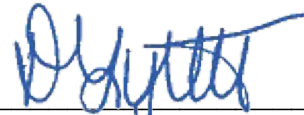
V. NOTICE OF WRIT

Actual notice of this Temporary Injunction shall be made by personal service on Defendants, which shall include Defendants' officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, in accordance with the Texas Rules of Civil Procedure.

VI. EXECUTION OF WRIT

The Court hereby orders the Clerk of the Court to immediately issue the Writ of Injunction, styled in the name of the State of Texas, and further in compliance with all requirements of Texas Rules of Civil Procedure 687 and 688, to be served and returned in compliance with Rule 689.

Signed this 1st day of May, 2026.



The Honorable Danella DeSeta Lyttle,
Judge Presiding