

TEXAS DEPARTMENT OF PUBLIC SAFETY

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July 23, 2019

Dear Criminal Justice Agencies,

You are likely aware that House Bill 1325, better known as the Hemp Bill, became law on June 10, 2019. The bill authorized the Texas Department of Agriculture to develop and submit a plan to the United States Department of Agriculture to regulate the legal production of hemp in Texas. It is expected to be several months before this regulatory system is in place. The more immediate implications of the Hemp Bill are the changes made to the definition of “controlled substance” and “marijuana” under the Texas Health and Safety Code. Because these changes took effect immediately, we want to make you aware of the current capabilities of our laboratories and plans moving forward in light of these changes.

Under the Hemp Bill, marijuana and tetrahydrocannabinol, or THC (excluding the THC in Hemp), remain illegal substances. Hemp, however, is now excluded from the definition of “controlled substance” and “marijuana.” Hemp is defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” A substance’s THC concentration is now potentially relevant to that substance’s legal status in a manner that was not the case prior to the adoption of HB 1325.

Currently, Texas Department of Public Safety laboratories can identify whether a substance is *Cannabis sativa* L. and contains THC, but we are currently developing the procedures necessary to test the THC concentration level. We will develop the validation method to quantify THC as expeditiously as possible, but we expect this process to take up to six months. Until that time, the department will accept evidence and provide analysis in cases involving suspected marijuana and THC after consulting with the responsible prosecuting office and determining that the prosecutor wishes to proceed with analysis under the laboratory’s current capacity regarding the quantification of THC.

We will continue to keep you informed as this process moves forward. If you have any specific needs for testing of suspected marijuana or THC that have not been addressed in this letter, please contact us for additional information.

Additionally, elected state leadership provided the below guidance last week and it is included for your information.

In addition to the changes to the Health and Safety Code changes discussed here, HB 1325 amended the Texas Agriculture Code to create an offense for the unlawful transport of hemp materials. Texas Agriculture Code section 122.360 requires individuals transporting cannabis plant material to carry proper certificates and documentation establishing that the material is being transported pursuant to an authorized hemp program. Individuals failing to produce required documentation commit an offense. Prosecutors and law enforcement agencies should make decisions regarding marijuana enforcement and testing needs in light of the new offense contained in the Agriculture Code.

Sincerely,

A handwritten signature in blue ink that reads "Brady W. Mills". The signature is written in a cursive style with a large initial 'B' and 'M'.

Brady W. Mills, Assistant Chief
Law Enforcement Support Division
Crime Laboratory Service