



HFSC adopts method to differentiate between hemp and marijuana

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FOR IMMEDIATE RELEASE

The Houston Forensic Science Center has adopted a testing method to differentiate hemp from marijuana, providing the courts with information needed to more easily enforce existing marijuana laws for the first time in more than a year.

The method launched Tuesday by HFSC's seized drugs section can measure whether delta-9 tetrahydrocannabinol (THC,) the controlled substance in the cannabis plant that causes a "high," is above or below 1 percent. This will allow the laboratory to differentiate illegal marijuana from legal hemp.

The Texas Legislature sent marijuana enforcement statewide into upheaval in June 2019 when it legalized hemp by defining it as a cannabis product with 0.3 percent or less THC.

Crime laboratories statewide did not have the capability to measure the amount of THC in any cannabis products, making it difficult, and in some cases impossible, for prosecutors to prove whether a seized plant material was marijuana or hemp.

As a result of the new law, some district attorneys, including from Harris County, requested that law enforcement agencies provide lab reports showing the evidence is marijuana as that information is key to any prosecution for possession of marijuana.

Since public crime laboratories in Texas have been unable to do this testing until now, it meant law enforcement agencies had to decide when to spend hundreds _ and sometimes thousands _ of dollars to send evidence to a private laboratory. Often, these resources were dedicated to only the largest felony cases.

As a result of the analysis method launched Tuesday, Houston prosecutors will now be able to use public laboratory test results to prove in court whether a seized plant material is marijuana.

“This new method will address the vast majority of the cases, though only for plant material, not products,” said James Miller, manager of HFSC’s seized drugs section.

This means the method developed cannot be used to determine the THC concentration in oils, waxes, edibles and other non-plant materials. Seized drugs analysts will continue researching whether the method can be used on these products going forward.

However, the method is limited in scope since it will measure THC concentrations at 1 percent or more although the law defines any item with a THC concentration of more than 0.3 percent as a controlled substance. As a result, HFSC will require stakeholders to acknowledge the limitations of the testing in an end-user agreement. HFSC will also note those limitations on all final reports.

“We hope that with the implementation of this method we will be able to provide stakeholders with the scientific information they need to deal with at least some suspected marijuana products,” said Dr. Peter Stout, HFSC’s CEO and president.

“This has been a successful collaborative effort with other crime laboratories in the state and we hope that the consistency in our analyses will be beneficial,” he added.

The Texas Legislature passed H.B. 1325 in 2019, a law intended to allow for the commercialization of hemp and its byproducts, such as popular CBD merchandise. H.B. 1325 defined marijuana as anything with more than 0.3 percent THC and hemp as anything with a lower percentage.

Marijuana is a controlled substance under Texas and federal law. Texas based its hemp legalization law on a 2018 federal law that legalized hemp and its byproducts.

HFSC is a local government corporation that provides forensic services to the City of Houston and other local agencies. HFSC is overseen by a Board of Directors appointed by the Mayor of Houston and confirmed by the Houston City Council. Its management structure is designed to be responsive to a 2009 recommendation by the National Academy of Sciences that called for crime laboratories to be independent of law enforcement and prosecutorial branches of government.

HFSC operates in seven forensic disciplines.

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