POLICY ANALYSIS

The Harmful Impact of Public Chapter 526 on Tennessee's Hemp Industry, Economy, and Consumers

EXECUTIVE SUMMARY

In 2025, the Tennessee General Assembly passed Public Chapter 526 (HB 1376), which dramatically overhauled the state's regulation of hemp-derived cannabinoid products. While framed as consumer protection legislation, the law has produced severe unintended consequences: widespread small business closures, significant loss of state tax revenue, administrative chaos at the Tennessee Alcoholic Beverage Commission (TABC), and the elimination of legal access for many Tennesseans — including veterans — who relied on previously compliant products for pain, anxiety, sleep, and other conditions.

This analysis compares the prior regulatory framework (Public Chapter 423 of 2023) with the new regime under Public Chapter 526 and demonstrates why the 2025 changes have been net harmful to Tennessee's economy, small businesses, consumers, and state revenue.

KEY HARMS OBSERVED SINCE JULY 1, 2026 IMPLEMENTATION:

- State hemp wholesale tax projections slashed from over $55 million to under $10 million for FY2026.
- Multiple independent retailers forced to close permanently or relocate operations out of state.
- TABC licensing backlog left roughly half of ~2,000 applicants without approved licenses by enforcement date.
- Veterans and chronic pain patients lost legal access to products they had been using under the prior framework.
- Consumer demand shifted to unregulated out-of-state or black market channels, undermining the stated public safety goals.

OVERVIEW OF THE TWO REGULATORY FRAMEWORKS

Public Chapter 423 (2023) — The Prior Framework

Public Chapter 423 established the first comprehensive state-level regulation of hemp-derived cannabinoid products (HDCPs) in Tennessee. It operated primarily under the Department of Agriculture (TDA), required licensing for suppliers and retailers, mandated third-party testing, imposed a 6% additional retail sales tax, and restricted sales to adults 21+. Importantly, it treated THCa, Delta-8, Delta-10, and similar compounds as legal hemp-derived products as long as Delta-9 THC remained at or below 0.3% on a dry weight basis. This framework was imperfect but created a functional, regulated marketplace aligned with the 2018 federal Farm Bill.

Public Chapter 526 (2025) — The Current Framework

Public Chapter 526 fundamentally rewrote the rules. It transferred regulatory authority from the TDA to the TABC, introduced a strict post-decarboxylation "Total THC" calculation that effectively bans most raw THCA flower and high-potency full-spectrum products, replaced the retail sales tax with heavy upstream wholesale excise taxes, added strict milligram caps on edibles and vapes, and created an entirely new licensing system. While some consumer protection elements were retained or strengthened, the overall effect has been highly disruptive to the existing industry.

PROS OF THE 2023 FRAMEWORK (PUBLIC CHAPTER 423)

- **Created a Regulated Marketplace:** Established clear licensing, testing, and age-verification rules, bringing previously gray-market products under state oversight.
- **Supported Small Business Growth:** Allowed independent Tennessee retailers, cultivators, and processors to operate and expand under a defined legal structure.
- **Generated State Revenue:** The 6% additional retail tax on HDCPs contributed meaningful revenue to the state without requiring new broad-based taxes.
- **Aligned with Federal Farm Bill:** Maintained consistency with the 2018 federal definition of hemp, reducing legal conflict and uncertainty for businesses.
- **Provided Consumer Access:** Adults 21+ had legal access to a range of hemp-derived products, including those used for wellness, pain management, and sleep.
- **Relatively Stable Implementation:** While not perfect, the TDA-based system avoided the massive licensing backlog and transition chaos seen under the new TABC regime.

PROBLEMS CREATED BY PUBLIC CHAPTER 526

1. De Facto Product Ban Through Testing Rules

The shift to a post-decarboxylation Total THC formula (Total THC = Δ9-THC + 0.877 × THCA) effectively reclassifies most raw THCA flower and many full-spectrum extracts as marijuana rather than hemp. This single change eliminated the highest-volume product categories for the majority of independent retailers, triggering immediate revenue collapse for many businesses. Unlike a transparent ban, this approach created confusion and made compliance extremely difficult for operators who had built businesses in good faith under the prior rules.

2. Administrative Transition Failure

Moving regulatory authority from the TDA to the TABC created a severe implementation bottleneck. The TABC received approximately 2,000 license applications but had only approved roughly half by the July 1, 2026 enforcement date. Average processing times reached 29 days. Many retailers received their licenses too late to secure compliant inventory, resulting in empty shelves, lost sales, and in some cases permanent business closures. This was a predictable consequence of shifting an entire industry to a new agency with no prior experience regulating it.

3. Punitive Upstream Taxation

The replacement of the 6% retail sales tax with a heavy upstream wholesale excise tax ($50 per ounce on raw flower + $0.02 per milligram on total cannabinoids) dramatically increased costs before products even reached retail shelves. This structure prices many Tennessee operators out of competition with out-of-state online sellers and creates strong incentives for capital flight. State revenue projections were already revised downward from over $55 million to under $10 million for FY2026 as a direct result.

4. Arbitrary and Harmful Product Caps

The new limits on edibles (15 mg THC per serving / 300 mg per package) and inhalable vapes (500 mg total cannabinoids per cartridge, max 40 servings) are far stricter than necessary for reasonable consumer protection and effectively eliminate popular, previously legal product formats. These caps increase consumer costs, generate more packaging waste, and push users toward unregulated alternatives.

5. Consumer and Veteran Displacement

Thousands of Tennesseans — including veterans managing PTSD, chronic pain, and other service-connected conditions — lost legal access to products they had been using responsibly under the prior framework. Veteran advocacy groups and individual petitions have documented this impact. Prohibition does not eliminate demand; it shifts it to unregulated channels that lack age verification, testing, and labeling standards — directly undermining the public safety rationale offered for the law.

CONCLUSION AND RECOMMENDATION

Public Chapter 526 has delivered measurable harm to Tennessee’s small businesses, state revenue, and consumers while failing to achieve its stated goals of improved public safety and orderly regulation. The combination of a de facto product ban, a chaotic agency transition, punitive taxation, and overly restrictive product caps has created exactly the outcomes industry stakeholders predicted: business closures, capital flight, lost tax revenue, and consumer displacement into less safe channels.

Recommendation: The General Assembly should revisit Public Chapter 526 and consider replacing its most damaging provisions with the framework outlined in the Tennessee Responsible Hemp Commerce Act. That alternative — built around individual Hemp Handlers Permits, age-gated specialty retail channels, and laboratory reciprocity — offers stronger consumer protections, a viable path for small businesses, meaningful state revenue, and better alignment with Tennessee’s pro-business, pro-veteran values than the current prohibition-heavy approach.

Primary Sources: *Public Chapter 423 (2023) — https://publications.tnsosfiles.com/acts/113/pub/pc0423.pdf; Public Chapter 526 (2025) — Tennessee General Assembly; TABC licensing data and public statements (June–July 2026); Tennessee Department of Finance & Administration revenue reports; Whitney Economics market valuation; Knoxville News Sentinel, WBIR, WREG, Tennessee Lookout, and Times Free Press reporting (2026); Veteran petitions and TNVET legislative materials. All data current as of July 2026.*