

By: Talarico

H.B. No. 1831

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of the cultivation, manufacture,
3 processing, distribution, sale, testing, transportation, delivery,
4 transfer, possession, use, and taxation of cannabis and cannabis
5 products and the local regulation of cannabis establishments;
6 providing for expunction of records relating to certain
7 decriminalized conduct; authorizing the imposition of fees;
8 requiring an occupational license; creating a criminal offense;
9 imposing a tax.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 ARTICLE 1. SHORT TITLE

12 SECTION 1.01. This Act may be cited as the Texas Regulation
13 of Cannabis Act.

14 ARTICLE 2. REGULATION AND TAXATION OF CANNABIS

15 SECTION 2.01. Subtitle C, Title 6, Health and Safety Code,
16 is amended by adding Chapter 491 to read as follows:

17 CHAPTER 491. REGULATION OF CANNABIS

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 491.0001. DEFINITIONS. In this chapter:

20 (1) "Adult" means an individual 21 years of age or
21 older.

22 (2) "Cannabis" means the plant Cannabis sativa L.,
23 whether growing or not, the seeds of that plant, and every compound,
24 manufacture, salt, derivative, mixture, or preparation of that

1 plant or its seeds. The term includes cannabis concentrate. The
2 term does not include:

3 (A) the mature stalks of the plant or fiber
4 produced from the stalks;

5 (B) oil or cake made from the seeds of the plant;

6 (C) a compound, manufacture, salt, derivative,
7 mixture, or preparation of the mature stalks, fiber, oil, or cake;

8 (D) the sterilized seeds of the plant that are
9 incapable of beginning germination;

10 (E) hemp, as that term is defined by Section
11 121.001, Agriculture Code; or

12 (F) a consumable hemp product, as that term is
13 defined by Section 443.001.

14 (3) "Cannabis concentrate" means the resin extracted
15 from a part of the plant Cannabis sativa L. or a compound,
16 manufacture, salt, derivative, mixture, or preparation of the
17 resin.

18 (4) "Cannabis establishment" means an entity licensed
19 by the department under this chapter to process and dispense
20 cannabis and cannabis products to an adult.

21 (5) "Cannabis grower" means an entity licensed by the
22 department to cultivate cannabis for sale and distribution to a
23 cannabis establishment.

24 (6) "Cannabis product" means a product that contains
25 cannabis and is intended for use or consumption by humans,
26 including as an edible product or as a topical product, ointment,
27 oil, or tincture. The term includes products that consist of

1 cannabis and other ingredients.

2 (7) "Cannabis-related drug paraphernalia" means
3 equipment, a product, or material that is used or intended for use
4 in:

5 (A) planting, propagating, cultivating, growing,
6 harvesting, manufacturing, compounding, converting, producing,
7 processing, preparing, testing, analyzing, packaging, repackaging,
8 storing, or containing cannabis or a cannabis product; or

9 (B) introducing cannabis or a cannabis product
10 into the human body.

11 (8) "Cannabis secure transporter" means an entity
12 licensed by the department under this chapter to transport cannabis
13 from a cannabis grower to a cannabis establishment.

14 (9) "Cannabis testing facility" means an entity
15 licensed by the department under this chapter to analyze the safety
16 and potency of cannabis and cannabis products.

17 (10) "Commission" means the Texas Commission of
18 Licensing and Regulation.

19 (11) "Cultivate" means to propagate, breed, grow,
20 harvest, dry, cure, or separate parts of the cannabis plant by
21 manual or mechanical means.

22 (12) "Department" means the Texas Department of
23 Licensing and Regulation.

24 (13) "Executive director" means the executive
25 director of the department.

26 (14) "Marihuana" has the meaning assigned by Section
27 [481.002](#).

1 (15) "Process" means to separate or otherwise prepare
2 parts of the cannabis plant and to compound, blend, extract,
3 infuse, or otherwise make or prepare cannabis concentrate or
4 cannabis products.

5 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

6 Sec. 491.0051. AUTHORIZED CONDUCT: PERSONAL USE OF
7 CANNABIS. An adult is authorized under this chapter to:

8 (1) use, possess, and transport not more than 2.5
9 ounces of cannabis, except that not more than 15 grams of that
10 amount may be in the form of cannabis concentrate;

11 (2) transfer without remuneration to another adult not
12 more than 2.5 ounces of cannabis, except that not more than 15 grams
13 of that amount may be in the form of cannabis concentrate and
14 provided that the transfer is not advertised or promoted to the
15 public;

16 (3) cultivate for personal use not more than 12
17 cannabis plants in an area on the premises of the adult's private
18 residence, provided that the cultivation occurs in an enclosed area
19 that is:

20 (A) equipped with locks or other security devices
21 that restrict access to the area; and

22 (B) not visible from a public place without the
23 use of aircraft or optical aids;

24 (4) possess, store, or process on the premises of the
25 adult's private residence not more than:

26 (A) the amount of cannabis produced from cannabis
27 plants cultivated on the premises, provided that:

1 (i) not more than 12 cannabis plants are
2 possessed, cultivated, or processed on the premises at one time;
3 and

4 (ii) any amount of cannabis in excess of 2.5
5 ounces is stored in a container or area equipped with locks or other
6 security devices that restrict access to the contents of the
7 container or area; and

8 (B) 10 ounces of cannabis that were not produced
9 from cannabis plants cultivated on the premises, provided that the
10 amount in excess of 2.5 ounces is stored in a container or area
11 described by Paragraph (A)(ii);

12 (5) use, possess, process, transport, or transfer to
13 another adult without remuneration an amount of cannabis products
14 specified by rule of the commission as the allowable amount of
15 cannabis for purposes of this subdivision; and

16 (6) use, possess, transport, or transfer to another
17 adult without remuneration cannabis-related drug paraphernalia.

18 Sec. 491.0052. AUTHORIZED CONDUCT: RETAIL CANNABIS
19 OPERATIONS. This chapter authorizes the conduct of:

20 (1) a cannabis grower director, manager, or employee
21 who, acting within the scope of the grower's license:

22 (A) cultivates cannabis or produces cannabis
23 products for sale or transfer to a cannabis establishment; and

24 (B) possesses cannabis or cannabis-related drug
25 paraphernalia;

26 (2) a cannabis establishment director, manager, or
27 employee who, acting within the scope of the establishment's

1 license, possesses cannabis or cannabis products or transfers or
2 sells cannabis, cannabis products, or cannabis-related drug
3 paraphernalia to an adult;

4 (3) a cannabis secure transporter director, manager,
5 or employee who, acting within the scope of the secure
6 transporter's license, transports, transfers, or delivers cannabis
7 or cannabis products from a cannabis grower to a cannabis
8 establishment; and

9 (4) a cannabis testing facility director, manager, or
10 employee who, acting within the scope of the facility's license,
11 possesses or tests cannabis, cannabis products, or
12 cannabis-related drug paraphernalia.

13 Sec. 491.0053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED
14 CONDUCT. (a) A person is not subject to arrest, prosecution,
15 forfeiture of property, or penalty in any manner or denial of any
16 right or privilege, including any civil penalty or disciplinary
17 action by a court or occupational or professional licensing board
18 or bureau solely due to conduct authorized under Section 491.0051
19 or 491.0052.

20 (b) The fact that a person engages in conduct authorized by
21 Section 491.0051 or 491.0052 does not in itself constitute grounds
22 for denying, limiting, or restricting conservatorship or
23 possession of or access to a child under Title 5, Family Code.

24 Sec. 491.0054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;
25 EXCEPTION. (a) Except as otherwise provided by Subsection (b), a
26 person may prohibit or restrict the possession, consumption,
27 cultivation, distribution, processing, sale, or display of

1 cannabis or cannabis products on property the person owns,
2 occupies, or manages.

3 (b) A person may not prohibit a residential tenant under a
4 lease agreement from possessing cannabis, cannabis products, or
5 cannabis-related drug paraphernalia or consuming cannabis by means
6 other than smoking on the premises.

7 Sec. 491.0055. CONDUCT NOT AUTHORIZED UNDER THIS CHAPTER.
8 This chapter does not authorize the following conduct:

9 (1) operating a motor vehicle while intoxicated or
10 otherwise violating Chapter 49, Penal Code;

11 (2) smoking or otherwise consuming cannabis in:

12 (A) a motor vehicle while the vehicle is on a
13 public road;

14 (B) an aircraft, while the aircraft is in flight
15 or in a public area;

16 (C) a watercraft, while the watercraft is on a
17 public waterway; or

18 (D) a public place, unless:

19 (i) the public place is an area designated
20 by the applicable political subdivision as an area where using
21 cannabis is permissible; and

22 (ii) the area described by Subparagraph (i)
23 is not accessible to persons younger than 21 years of age;

24 (3) possessing or consuming cannabis or cannabis
25 products or possessing cannabis-related drug paraphernalia:

26 (A) on the premises of a public or private
27 child-care facility, prekindergarten, or primary or secondary

1 school;

2 (B) on a school bus that serves a facility or
3 school described by Paragraph (A); or

4 (C) on the premises of a correctional facility,
5 as defined by Article 18A.251, Code of Criminal Procedure, or a
6 civil commitment facility; or

7 (4) separating resin from the cannabis plant by butane
8 extraction or another method that uses a substance with a
9 flashpoint below 100 degrees Fahrenheit in a public place or motor
10 vehicle or within the curtilage of a residential structure.

11 SUBCHAPTER C. DUTIES OF COMMISSION AND DEPARTMENT

12 Sec. 491.0101. DUTIES OF DEPARTMENT. The department shall
13 administer this chapter.

14 Sec. 491.0102. RULES; FEES. (a) The commission shall adopt
15 all necessary rules for the administration and enforcement of this
16 chapter, including rules imposing fees under this chapter in
17 amounts sufficient to cover the cost of administering this chapter.

18 (b) The commission by rule shall set application and license
19 fees under this chapter in amounts sufficient to administer this
20 chapter and may annually adjust the fees for inflation.

21 (c) A fee collected under this chapter shall be deposited to
22 the credit of the cannabis regulation account established under
23 Section 491.0251.

24 (d) The commission shall adopt rules for the reasonable
25 regulation of cannabis growers and cannabis establishments,
26 including rules that:

27 (1) restrict the use of dangerous pesticides;

1 (2) regulate the packaging and labeling of cannabis
2 products available at a cannabis establishment;

3 (3) restrict advertising and display of cannabis and
4 cannabis products;

5 (4) restrict the maximum amount of
6 tetrahydrocannabinol that may be contained in a cannabis product
7 sold to a consumer;

8 (5) require recordkeeping and monitoring to track the
9 transfer of cannabis and cannabis products between license holders;
10 and

11 (6) require security measures, provided that the
12 security measures do not restrict the cultivation of cannabis
13 outdoors or in greenhouses.

14 Sec. 491.0103. TESTING, PACKAGING, AND LABELING STANDARDS.

15 (a) The commission by rule shall establish standards for:

16 (1) the operation of cannabis testing facilities;

17 (2) the testing of cannabis and cannabis products; and

18 (3) packaging and labeling requirements for cannabis
19 and cannabis products.

20 (b) In establishing standards for packaging and labeling
21 requirements under Subsection (a)(3), the commission shall require
22 that:

23 (1) cannabis and cannabis products be packaged in
24 opaque, resealable, child-resistant packaging that does not
25 resemble and may not be easily confused with typical packaging for
26 commercially sold candy;

27 (2) cannabis and cannabis products be clearly labeled;

1 and

2 (3) the label for a cannabis product disclose the
3 amount of cannabis contained in that product.

4 Sec. 491.0104. SECURE TRANSPORTATION OF CANNABIS. The
5 commission by rule shall establish standards applicable to cannabis
6 secure transporters, including standards to ensure all cannabis
7 establishments are properly served.

8 Sec. 491.0105. CONFLICT OF INTEREST. (a) A person who is
9 involved in the implementation, administration, or enforcement of
10 this chapter as a member of the commission, an employee of the
11 department, or a consultant to the commission or the department may
12 not also hold a pecuniary interest in any entity licensed by the
13 department under this chapter.

14 (b) A person who holds a pecuniary interest in a cannabis
15 testing facility or a cannabis secure transporter who holds a
16 license issued under this chapter may not hold a pecuniary interest
17 in any entity that holds a cannabis establishment or cannabis
18 grower license issued under this chapter.

19 (c) A person may not hold a pecuniary interest in more than
20 five entities that are licensed under this chapter as a cannabis
21 grower, except as provided by commission rule.

22 Sec. 491.0106. ANNUAL REPORT. The executive director shall
23 annually submit to the governor a report providing the following
24 information regarding licensing and regulation under this chapter:

25 (1) the number of applications received for each class
26 of license under this chapter;

27 (2) the number of licenses issued for each class of

1 license under this chapter;

2 (3) demographic information pertaining to license
3 holders;

4 (4) a description of any fines imposed on a license
5 holder or disciplinary actions taken against a license holder by
6 the department; and

7 (5) a statement of revenues and expenses of the
8 department related to the implementation, administration, and
9 enforcement of this chapter.

10 SUBCHAPTER D. LICENSING

11 Sec. 491.0151. LICENSE REQUIRED. A person must hold a
12 license issued by the department under this chapter to operate as a
13 cannabis grower, cannabis establishment, cannabis secure
14 transporter, or cannabis testing facility.

15 Sec. 491.0152. QUALIFICATIONS FOR LICENSURE. The
16 commission by rule shall provide for each class of license issued
17 under this chapter qualifications for licensure that are
18 demonstrably related to the operations authorized and duties
19 imposed under that class of license.

20 Sec. 491.0153. APPLICATION. (a) A person may apply for an
21 initial or renewal license under this chapter by submitting a form
22 prescribed by the department along with the application fee in an
23 amount set by commission rule.

24 (b) The application must indicate the class of license
25 sought and include the name and address of the applicant, the name
26 and address of each of the applicant's directors, managers, and
27 employees, and any other information considered necessary by the

1 department to determine the applicant's eligibility for the
2 license.

3 Sec. 491.0154. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

4 (a) The department shall issue or renew a license under this
5 chapter only if:

6 (1) the department determines the applicant meets the
7 qualifications for the class of license sought established under
8 Section 491.0152; and

9 (2) the applicant is in compliance with any applicable
10 local regulations.

11 (b) If the department denies the issuance or renewal of a
12 license under Subsection (a), the department shall give written
13 notice of the grounds for denial to the applicant.

14 (c) A license issued or renewed under this section expires
15 as determined by commission rule and the department in accordance
16 with Section 51.406, Occupations Code.

17 Sec. 491.0155. DUTY TO MAINTAIN QUALIFICATIONS. A license
18 holder shall maintain compliance at all times with the
19 qualifications for the applicable class of license established
20 under Section 491.0152.

21 Sec. 491.0156. LICENSE SUSPENSION OR REVOCATION. (a) The
22 department may at any time suspend or revoke a license issued under
23 this chapter if the department determines that the license holder
24 has not maintained the qualifications established under Section
25 491.0152 or has failed to comply with a duty imposed under this
26 chapter.

27 (b) The department shall give written notice to a license

1 holder of a license suspension or revocation under this section and
2 the grounds for the suspension or revocation. The notice must be
3 sent by certified mail, return receipt requested.

4 (c) After suspending or revoking a license issued under this
5 chapter, the department shall notify the Department of Public
6 Safety. The public safety director of the Department of Public
7 Safety may seize or place under seal all cannabis, cannabis
8 products, and cannabis-related drug paraphernalia owned or
9 possessed by the license holder. If the license is revoked, a
10 disposition may not be made of the seized or sealed cannabis,
11 cannabis products, or cannabis-related drug paraphernalia until
12 the time for administrative appeal of the order has elapsed or until
13 all appeals have been concluded. When a revocation order becomes
14 final, all cannabis, cannabis products, and cannabis-related drug
15 paraphernalia may be forfeited to the state as provided under
16 Subchapter E, Chapter 481.

17 (d) Chapter 2001, Government Code, applies to a proceeding
18 under this section.

19 Sec. 491.0157. CRIMINAL HISTORY BACKGROUND CHECK. (a) In
20 addition to satisfying the other requirements provided by
21 commission rule under this chapter, an applicant for a license
22 under this chapter must submit to the department a complete and
23 legible set of fingerprints, on a form prescribed by the
24 commission, for the purpose of obtaining criminal history record
25 information from the Department of Public Safety and the Federal
26 Bureau of Investigation.

27 (b) The department may deny a license to an applicant who

1 does not comply with the requirement of Subsection (a). Issuance of
2 a license by the department is conditioned on the department
3 obtaining the applicant's criminal history record information
4 under this section.

5 (c) The commission by rule shall establish criteria for
6 determining whether a person passes the criminal history background
7 check for purposes of this section. The rules adopted under this
8 section may not disqualify a person for licensure solely for a
9 conviction of an offense that involves the possession of marihuana
10 or the delivery of marihuana to a person 18 years of age or older.

11 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

12 Sec. 491.0201. DUTIES RELATING TO DISPENSING CANNABIS OR
13 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis products
14 to an adult, a cannabis establishment must make reasonable efforts
15 to verify that:

16 (1) the person receiving the cannabis or cannabis
17 product is an adult;

18 (2) the cannabis or cannabis product complies with
19 department testing and labeling rules; and

20 (3) the amount dispensed is not greater than the
21 amount of cannabis or cannabis product allowed for personal use as
22 provided by Section 491.0051.

23 Sec. 491.0202. DUTIES RELATING TO SECURITY. (a) A license
24 holder shall ensure that the cultivation, processing, sale, or
25 display of cannabis, cannabis products, and cannabis-related drug
26 paraphernalia is not visible from a public place without the use of
27 optical aids or aircraft.

1 (1) money deposited to the credit of the account under
2 Section 166.0004, Tax Code; and

3 (2) fees deposited to the credit of the account under
4 Section 491.0102.

5 (c) Money in the account may be appropriated only to the
6 department for implementing and administering this chapter.

7 Sec. 491.0252. CANNABIS TESTING AND QUALITY CONTROL
8 ACCOUNT. (a) The cannabis testing and quality control account is
9 an account in the general revenue fund administered by the
10 Department of Public Safety.

11 (b) The account consists of money deposited to the credit of
12 the account under Section 166.0004, Tax Code.

13 (c) Money in the account may be appropriated only to the
14 Department of Public Safety for monitoring compliance with testing
15 and quality control requirements imposed on license holders by this
16 chapter or by commission rules adopted under this chapter.

17 Sec. 491.0253. CANNABIS ESTABLISHMENT REGULATION AND
18 OVERSIGHT LOCAL SHARE ACCOUNT; PAYMENT FROM ACCOUNT. (a) In this
19 section:

20 (1) "Account" means the cannabis establishment
21 regulation and oversight local share account created under this
22 section.

23 (2) "Fiscal year" means the fiscal year of a
24 qualifying local government.

25 (3) "Qualifying local government" means a
26 municipality or county in which at least one cannabis establishment
27 is located during any portion of the applicable fiscal year.

1 (b) The cannabis establishment regulation and oversight
2 local share account is an account in the general revenue fund
3 administered by the comptroller.

4 (c) The account consists of money deposited to the credit of
5 the account under Section 166.0004, Tax Code.

6 (d) Money in the account may be used by the comptroller only
7 to make a cannabis establishment regulation assistance payment to a
8 qualifying local government in the manner provided by this section.

9 (e) To serve the state purpose of ensuring that local
10 governments in which cannabis establishments are located may
11 effectively participate in the regulation and oversight of those
12 establishments, a qualifying local government is entitled to a
13 cannabis establishment regulation assistance payment from the
14 state for each fiscal year that the local government is a qualifying
15 local government.

16 (f) Except as provided by Subsection (j), the amount of the
17 cannabis establishment regulation assistance payment to which a
18 qualifying local government is entitled for a fiscal year is equal
19 to the cost incurred by the local government to enforce regulations
20 adopted under Subchapter G.

21 (g) Not later than April 1 of the year following the end of a
22 fiscal year for which a qualifying local government is entitled to a
23 cannabis establishment regulation assistance payment, the
24 qualifying local government may submit an application to the
25 comptroller to receive a cannabis establishment regulation
26 assistance payment for that fiscal year. The application must be
27 made on a form prescribed by the comptroller. The comptroller may

1 require the qualifying local government to submit any information
2 the comptroller needs to determine the amount of the cannabis
3 establishment regulation assistance payment to which the
4 qualifying local government is entitled.

5 (h) A qualifying local government that does not submit an
6 application to the comptroller by the date prescribed by Subsection
7 (g) is not entitled to a cannabis establishment regulation
8 assistance payment for the fiscal year for which that deadline
9 applies.

10 (i) The comptroller shall review each application by a local
11 government to determine whether the local government is entitled to
12 a cannabis establishment regulation assistance payment. If the
13 comptroller determines that the local government is entitled to the
14 payment, the comptroller shall remit the payment using available
15 money in the account to the qualifying local government not later
16 than the 30th day after the date the application for the payment is
17 made.

18 (j) If at the time a cannabis establishment regulation
19 assistance payment must be remitted to a qualifying local
20 government under Subsection (i) the comptroller determines the
21 available amount in the account is insufficient to make the
22 payment, the comptroller may reduce the amount of the payment to the
23 qualifying local government. If more than one payment must be
24 remitted at a time when the available amount in the account is
25 insufficient to make those payments, the comptroller shall make
26 reduced payments to each qualifying local government. The
27 comptroller shall allocate the reductions in the amount of the

1 payments in a manner that is proportionate to the number of cannabis
2 establishments in each qualifying local government.

3 (k) The comptroller shall adopt rules necessary to
4 implement this section.

5 SUBCHAPTER G. LOCAL REGULATION AND OVERSIGHT

6 Sec. 491.0301. DEFINITION. In this subchapter, "health
7 authority" has the meaning assigned by Section 431.002.

8 Sec. 491.0302. PROHIBITED LOCAL REGULATION. A political
9 subdivision of this state may not enact, adopt, or enforce a rule,
10 ordinance, order, resolution, or other regulation that prohibits or
11 unreasonably restricts the cultivation, production, processing,
12 dispensing, transportation, or possession of cannabis or cannabis
13 products or the operation of a cannabis grower, cannabis
14 establishment, cannabis secure transporter, or cannabis testing
15 facility as authorized by this chapter.

16 Sec. 491.0303. PERMISSIBLE LOCAL REGULATION. A political
17 subdivision may adopt regulations consistent with this chapter
18 governing the hours of operation, location, manner of conducting
19 business, and number of cannabis growers, cannabis establishments,
20 or cannabis testing facilities.

21 Sec. 491.0304. PUBLIC HEALTH INSPECTIONS. A health
22 authority may, on presenting appropriate credentials to the license
23 holder or employee of the cannabis establishment:

24 (1) enter at reasonable times the premises of a
25 cannabis establishment;

26 (2) enter a vehicle being used to transport cannabis;

27 or

1 (3) inspect at reasonable times, within reasonable
2 limits, and in a reasonable manner, the establishment or vehicle
3 and all equipment, finished and unfinished materials, containers,
4 and labeling of any item.

5 Sec. 491.0305. COMPLAINTS. (a) A political subdivision or
6 health authority shall maintain a record of any complaints made to
7 the political subdivision or health authority regarding the
8 operations of a cannabis establishment.

9 (b) A political subdivision or health authority shall
10 investigate a complaint or refer the complaint to the department,
11 as appropriate.

12 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS PRODUCT
13 TO MINORS PROHIBITED

14 Sec. 491.0351. DEFINITION. In this subchapter, "minor"
15 means a person younger than 21 years of age.

16 Sec. 491.0352. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS
17 PRODUCT TO MINORS PROHIBITED; PROOF OF AGE REQUIRED. (a) A person
18 commits an offense if the person, under the authority of this
19 chapter:

20 (1) sells, gives, or causes to be sold or given
21 cannabis or cannabis products to a minor; or

22 (2) sells, gives, or causes to be sold or given
23 cannabis or cannabis products to another person who intends to
24 deliver the cannabis or cannabis products to a minor.

25 (b) If an offense under this section occurs in connection
26 with a sale by an employee of the owner of a cannabis establishment,
27 the employee is criminally responsible for the offense and is

1 subject to prosecution.

2 (c) An offense under this section is a Class C misdemeanor.

3 (d) It is a defense to prosecution under Subsection (a)(1)
4 that the person to whom the cannabis or cannabis products were sold
5 or given presented to the defendant apparently valid proof of
6 identification.

7 (e) A proof of identification satisfies the requirements of
8 Subsection (d) if it contains a physical description and photograph
9 consistent with the person's appearance, purports to establish that
10 the person is 21 years of age or older, and was issued by a
11 governmental agency. The proof of identification may include a
12 driver's license issued by this state or another state, a passport,
13 or an identification card issued by a state or the federal
14 government.

15 SECTION 2.02. Subchapter C, Chapter 42, Human Resources
16 Code, is amended by adding Section 42.069 to read as follows:

17 Sec. 42.069. CHILD-CARE SERVICES PROGRAM SUPPORT ACCOUNT.

18 (a) The child-care services program support account is an account
19 in the general revenue fund administered by the department.

20 (b) The account consists of money deposited to the account
21 under Section 166.0004, Tax Code.

22 (c) Money in the account may be appropriated only to the
23 department for the purpose of increasing subsidy funding for the
24 child-care services program.

25 SECTION 2.03. Subtitle E, Title 2, Tax Code, is amended by
26 adding Chapter 166 to read as follows:

1 CHAPTER 166. TAX ON CANNABIS AND RELATED PRODUCTS

2 Sec. 166.0001. DEFINITIONS. In this chapter, "cannabis"
3 and "cannabis product" have the meanings assigned by Section
4 491.0001, Health and Safety Code.

5 Sec. 166.0002. CANNABIS SALES TAX. (a) A tax is imposed on
6 each sale in this state of cannabis and cannabis products.

7 (b) The tax rate is 10 percent of the sales price of cannabis
8 or a cannabis product.

9 Sec. 166.0003. APPLICATION OF OTHER PROVISIONS OF CODE.

10 (a) The tax imposed under this chapter is in addition to the taxes
11 imposed under Chapter 151.

12 (b) Except as provided by this chapter:

13 (1) the tax imposed under this chapter is
14 administered, imposed, collected, and enforced in the same manner
15 as the taxes under Chapter 151 are administered, imposed,
16 collected, and enforced; and

17 (2) the provisions of Chapter 151 applicable to the
18 sales tax imposed under Subchapter C, Chapter 151, apply to the tax
19 imposed under this chapter.

20 Sec. 166.0004. DISPOSITION OF PROCEEDS. The comptroller
21 shall deposit the proceeds from the tax imposed under this chapter
22 as follows:

23 (1) 10 percent to the credit of the cannabis
24 regulation account under Section 491.0251, Health and Safety Code;

25 (2) 10 percent to the credit of the cannabis testing
26 and quality control account under Section 491.0252, Health and
27 Safety Code;

1 of all fines and costs imposed, is finally discharged; or

2 (B) the person received a dismissal and discharge
3 under Article 42A.111 for the offense.

4 (c) The person must submit an ex parte petition for
5 expunction to the court that convicted the person or placed the
6 person on deferred adjudication community supervision. The
7 petition must be verified and must contain the information
8 described by Section 2(b), Article 55.02.

9 (d) If the court finds that the petitioner is entitled to
10 expunction of the records and files that are the subject of the
11 petition, the court shall enter an order directing expunction in a
12 manner consistent with the procedures described by Section 1a,
13 Article 55.02.

14 (e) Notwithstanding any other law, the law enforcement
15 agency, the prosecuting attorney responsible for investigating the
16 offense, and the clerk of the applicable court may retain the
17 records and files relating to the arrest for the offense, including
18 any records and files related to a conviction of the offense, to be
19 used only:

20 (1) for the investigation or prosecution of another
21 offense arising out of the same transaction for which the person was
22 arrested; or

23 (2) by the office of the governor in determining
24 whether to issue a pardon or commute a sentence.

25 (f) The records and files for which an order of expunction
26 has been issued under this article are not open for inspection by
27 anyone, except that the records and files are open for inspection by

1 the person who is the subject of the order or for the purposes
2 described by Subsection (e).

3 ARTICLE 4. CONFORMING CHANGES

4 SECTION 4.01. Section 122.103(c), Agriculture Code, is
5 amended to read as follows:

6 (c) A qualified applicant who along with the application
7 submits proof to the department that the applicant holds a license
8 under Chapter 487 or 491, Health and Safety Code, is not required to
9 pay an application fee, and the department shall issue the license
10 to the applicant within the time prescribed by Subsection (b).

11 SECTION 4.02. Section 109.005(a), Business & Commerce Code,
12 is amended to read as follows:

13 (a) A business entity may not publish any criminal record
14 information in the business entity's possession with respect to
15 which the business entity has knowledge or has received notice
16 that:

17 (1) an order of expunction has been issued under
18 Chapter 55 [~~Article 55.02~~], Code of Criminal Procedure; or

19 (2) an order of nondisclosure of criminal history
20 record information has been issued under Subchapter E-1, Chapter
21 411, Government Code.

22 SECTION 4.03. Article 55.011(b), Code of Criminal
23 Procedure, is amended to read as follows:

24 (b) A close relative of a deceased person who, if not
25 deceased, would be entitled to expunction of records and files
26 under this chapter [~~Article 55.01~~] may file on behalf of the
27 deceased person an ex parte petition for expunction under Section 2

1 or 2a, Article 55.02, or Article 55.012, as applicable. If the
2 court finds that the deceased person would be entitled to
3 expunction of any record or file that is the subject of the
4 petition, the court shall enter an order directing expunction.

5 SECTION 4.04. Article 102.006(b), Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) The fees under Subsection (a) or the fee under
8 Subsection (a-1), as applicable, shall be waived if:

9 (1) the petitioner seeks expunction of a criminal
10 record that relates to an arrest for an offense of which the person
11 was acquitted, other than an acquittal for an offense described by
12 Article 55.01(c), and the petition for expunction is filed not
13 later than the 30th day after the date of the acquittal; or

14 (2) the petitioner is entitled to expunction under
15 Article 55.012.

16 SECTION 4.05. Section 411.0835, Government Code, is amended
17 to read as follows:

18 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO
19 CERTAIN PRIVATE ENTITIES. If the department receives information
20 indicating that a private entity that purchases criminal history
21 record information from the department has been found by a court to
22 have committed three or more violations of Section 552.1425 by
23 compiling or disseminating information with respect to which an
24 order of expunction has been issued under Chapter 55 [~~Article~~
25 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of
26 criminal history record information has been issued under
27 Subchapter E-1, the department may not release any criminal history

1 record information to that entity until the first anniversary of
2 the date of the most recent violation.

3 SECTION 4.06. Section 411.0851(a), Government Code, is
4 amended to read as follows:

5 (a) A private entity that compiles and disseminates for
6 compensation criminal history record information shall destroy and
7 may not disseminate any information in the possession of the entity
8 with respect to which the entity has received notice that:

9 (1) an order of expunction has been issued under
10 Chapter 55 [~~Article 55.02~~], Code of Criminal Procedure; or

11 (2) an order of nondisclosure of criminal history
12 record information has been issued under Subchapter E-1.

13 SECTION 4.07. Section 411.0891(a), Government Code, is
14 amended to read as follows:

15 (a) Subject to Section 411.087, the department is
16 authorized to obtain and use criminal history record information
17 maintained by the Federal Bureau of Investigation or the department
18 that relates to a person who:

19 (1) is an applicant for or holds a registration issued
20 by the director under Subchapter C, Chapter 481, Health and Safety
21 Code, that authorizes the person to manufacture, distribute,
22 analyze, or conduct research with a controlled substance;

23 (2) is an applicant for or holds a registration issued
24 by the department under Chapter 487, Health and Safety Code, to be a
25 director, manager, or employee of a dispensing organization, as
26 defined by Section 487.001, Health and Safety Code;

27 (2-a) is an applicant for or holds a license issued

1 under Chapter 491, Health and Safety Code, to be a cannabis grower,
2 cannabis establishment, cannabis secure transporter, or cannabis
3 testing facility, as defined by Section 491.0001, Health and Safety
4 Code;

5 (3) is an applicant for or holds an authorization
6 issued by the department under Section 521.2476, Transportation
7 Code, to do business in this state as a vendor of ignition interlock
8 devices;

9 (4) is an applicant for or holds certification by the
10 department as an inspection station or an inspector under
11 Subchapter G, Chapter 548, Transportation Code, holds an inspection
12 station or inspector certificate issued under that subchapter, or
13 is the owner of an inspection station operating under that chapter;
14 or

15 (5) is an applicant for or holds a certificate of
16 registration issued by the department under Chapter 1956,
17 Occupations Code, to act as a metal recycling entity.

18 SECTION 4.08. Section 411.151(b), Government Code, is
19 amended to read as follows:

20 (b) A person may petition for the expunction of a DNA record
21 under the procedures established under Article 55.02, Code of
22 Criminal Procedure, if the person is entitled to the expunction of
23 records relating to the offense to which the DNA record is related
24 under Chapter 55 [~~Article 55.01~~], Code of Criminal Procedure.

25 SECTION 4.09. Section 552.1425(a), Government Code, is
26 amended to read as follows:

27 (a) A private entity that compiles and disseminates for

1 compensation criminal history record information may not compile or
2 disseminate information with respect to which the entity has
3 received notice that:

4 (1) an order of expunction has been issued under
5 Chapter 55 [~~Article 55.02~~], Code of Criminal Procedure; or

6 (2) an order of nondisclosure of criminal history
7 record information has been issued under Subchapter E-1, Chapter
8 411.

9 SECTION 4.10. Section 443.202(a), Health and Safety Code,
10 is amended to read as follows:

11 (a) This section does not apply to low-THC cannabis
12 regulated under Chapter 487 or cannabis regulated under Chapter
13 491.

14 SECTION 4.11. Section 443.2025(a), Health and Safety Code,
15 is amended to read as follows:

16 (a) This section does not apply to low-THC cannabis
17 regulated under Chapter 487 or cannabis regulated under Chapter
18 491.

19 SECTION 4.12. Section 481.062, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 481.062. EXEMPTIONS. (a) The following persons are
22 not required to register and may possess a controlled substance
23 under this chapter [~~without registering with the Federal Drug~~
24 ~~Enforcement Administration~~]:

25 (1) an agent or employee of a registered manufacturer,
26 distributor, analyzer, or dispenser of the controlled substance
27 [~~who is registered with the Federal Drug Enforcement Administration~~

1 ~~and~~] acting in the usual course of business or employment;

2 (2) a common or contract carrier, a warehouseman, or
3 an employee of a carrier or warehouseman whose possession of the
4 controlled substance is in the usual course of business or
5 employment;

6 (3) an ultimate user or a person in possession of the
7 controlled substance under a lawful order of a practitioner or in
8 lawful possession of the controlled substance if it is listed in
9 Schedule V;

10 (4) an officer or employee of this state, another
11 state, a political subdivision of this state or another state, or
12 the United States who is lawfully engaged in the enforcement of a
13 law relating to a controlled substance or drug or to a customs law
14 and authorized to possess the controlled substance in the discharge
15 of the person's official duties;

16 (5) if the substance is tetrahydrocannabinol or one of
17 its derivatives:

18 (A) a Department of State Health Services
19 official, a medical school researcher, or a research program
20 participant possessing the substance as authorized under
21 Subchapter G; or

22 (B) a practitioner or an ultimate user possessing
23 the substance as a participant in a federally approved therapeutic
24 research program that the commissioner has reviewed and found, in
25 writing, to contain a medically responsible research protocol; ~~or~~

26 (6) a dispensing organization licensed under Chapter
27 [487](#) that possesses low-THC cannabis;

1 (7) a cannabis grower, cannabis establishment,
2 cannabis secure transporter, or cannabis testing facility licensed
3 under Chapter 491 that possesses cannabis or cannabis products; or

4 (8) a person who possesses cannabis or cannabis
5 products in accordance with Chapter 491.

6 (b) In this section, "cannabis" and "cannabis product" have
7 the meanings assigned to those terms by Section 491.0001.

8 SECTION 4.13. Section 481.111, Health and Safety Code, is
9 amended by adding Subsections (g) and (h) to read as follows:

10 (g) Sections 481.113, 481.116, 481.120, 481.121, and
11 481.125 do not apply to a person who engages in the acquisition,
12 possession, production, processing, cultivation, delivery,
13 transportation, disposal, transfer, or use of a raw material used
14 in or by-product created by the production or cultivation of
15 cannabis or cannabis products if the conduct is expressly
16 authorized by Subchapter B, Chapter 491.

17 (h) For purposes of Subsection (g), "cannabis" and
18 "cannabis product" have the meanings assigned to those terms by
19 Section 491.0001.

20 SECTION 4.14. Section 551.004, Occupations Code, is amended
21 by amending Subsection (a) and adding Subsection (a-1) to read as
22 follows:

23 (a) This subtitle does not apply to:

24 (1) a practitioner licensed by the appropriate state
25 board who supplies a patient of the practitioner with a drug in a
26 manner authorized by state or federal law and who does not operate a
27 pharmacy for the retailing of prescription drugs;

1 (2) a member of the faculty of a college of pharmacy
2 recognized by the board who is a pharmacist and who performs the
3 pharmacist's services only for the benefit of the college;

4 (3) a person who procures prescription drugs for
5 lawful research, teaching, or testing and not for resale;

6 (4) a home and community support services agency that
7 possesses a dangerous drug as authorized by Section 142.0061,
8 142.0062, or 142.0063, Health and Safety Code; [~~or~~]

9 (5) a dispensing organization[~~, as defined by Section~~
10 ~~487.001, Health and Safety Code,~~] that cultivates, processes, and
11 dispenses low-THC cannabis, as authorized by Chapter 487, Health
12 and Safety Code, to a patient listed in the compassionate-use
13 registry established under that chapter;

14 (6) a cannabis grower, cannabis establishment,
15 cannabis secure transporter, or cannabis testing facility licensed
16 under Chapter 491, Health and Safety Code, that cultivates,
17 manufactures, processes, distributes, delivers sells, tests,
18 transports, or dispenses cannabis or a cannabis product as
19 authorized by that chapter; or

20 (7) a person who transfers cannabis without
21 remuneration as authorized by Section 491.0051, Health and Safety
22 Code.

23 (a-1) For purposes of this section:

24 (1) "Cannabis," "cannabis establishment," "cannabis
25 grower," "cannabis product," "cannabis secure transporter," and
26 "cannabis testing facility" have the meanings assigned by Section
27 491.0001, Health and Safety Code.

1 (2) "Dispensing organization" and "low-THC cannabis"
2 have the meanings assigned by Section 487.001, Health and Safety
3 Code.

4 SECTION 4.15. Section 151.313(c), Tax Code, is amended to
5 read as follows:

6 (c) A product is a drug or medicine for purposes of this
7 section if the product:

8 (1) is intended for use in the diagnosis, cure,
9 mitigation, treatment, or prevention of disease, illness, injury,
10 or pain;

11 (2) is applied to the human body or is a product that a
12 human ingests or inhales;

13 (3) is not an appliance or device; ~~and~~

14 (4) is not food; and

15 (5) is not cannabis or a cannabis product, as those
16 terms are defined by Section 491.0001, Health and Safety Code.

17 SECTION 4.16. Section 151.314, Tax Code, is amended by
18 adding Subsection (i) to read as follows:

19 (i) The exemption provided by Subsection (a) does not apply
20 to a cannabis product, as defined by Section 491.0001, Health and
21 Safety Code.

22 SECTION 4.17. Section 151.316, Tax Code, is amended by
23 adding Subsection (e) to read as follows:

24 (e) The exemption provided by Subsection (a)(5) does not
25 apply to cannabis, as defined by Section 491.0001, Health and
26 Safety Code.

27 ARTICLE 5. TRANSITION; EFFECTIVE DATE

1 SECTION 5.01. (a) Not later than July 1, 2024, the Texas
2 Commission of Licensing and Regulation shall adopt rules as
3 required to implement, administer, and enforce Chapter 491, Health
4 and Safety Code, as added by this Act.

5 (b) Not later than November 1, 2024, the Texas Department of
6 Licensing and Regulation shall begin licensing cannabis growers,
7 cannabis establishments, cannabis secure transporters, and
8 cannabis testing facilities in accordance with Chapter 491, Health
9 and Safety Code, as added by this Act, provided that the applicants
10 for a license have met all requirements for approval under Chapter
11 491, Health and Safety Code, as added by this Act.

12 SECTION 5.02. The changes in law made by this Act do not
13 affect tax liability accruing before the effective date of this
14 Act. That liability continues in effect as if this Act had not been
15 enacted, and the former law is continued in effect for the
16 collection of taxes due and for civil and criminal enforcement of
17 the liability for those taxes.

18 SECTION 5.03. Article 55.012, Code of Criminal Procedure,
19 as added by this Act, applies to an expunction of arrest records and
20 files relating to an offense that was committed before the
21 effective date of this Act.

22 SECTION 5.04. This Act takes effect September 1, 2023.