

1-1 By: Eltife, Ellis, Rodríguez S.B. No. 339
 1-2 (In the Senate - Filed January 23, 2015; February 2, 2015,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 February 18, 2015, rereferred to Committee on Health and Human
 1-5 Services; May 5, 2015, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 8, Nays 1;
 1-7 May 5, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 339 By: Schwertner

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the medical use of low-THC cannabis and the regulation
 1-23 of related organizations and individuals; requiring a dispensing
 1-24 organization to obtain a license to dispense low-THC cannabis and
 1-25 any employee of a dispensing organization to obtain a registration;
 1-26 authorizing fees.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is
 1-29 amended by adding Chapter 487 to read as follows:

1-30 CHAPTER 487. TEXAS COMPASSIONATE-USE ACT

1-31 SUBCHAPTER A. GENERAL PROVISIONS

1-32 Sec. 487.001. DEFINITIONS. In this chapter:

1-33 (1) "Department" means the Department of Public
 1-34 Safety.

1-35 (2) "Director" means the public safety director of the
 1-36 department.

1-37 (3) "Dispensing organization" means an organization
 1-38 licensed by the department to cultivate, process, and dispense
 1-39 low-THC cannabis to a patient for whom low-THC cannabis is
 1-40 prescribed under Chapter 169, Occupations Code.

1-41 (4) "Low-THC cannabis" has the meaning assigned by
 1-42 Section 169.001, Occupations Code.

1-43 SUBCHAPTER B. DUTIES OF DEPARTMENT

1-44 Sec. 487.051. DUTIES OF DEPARTMENT. The department shall
 1-45 administer this chapter.

1-46 Sec. 487.052. RULES. The director shall adopt any rules
 1-47 necessary for the administration and enforcement of this chapter,
 1-48 including rules imposing fees under this chapter in amounts
 1-49 sufficient to cover the cost of administering this chapter.

1-50 Sec. 487.053. LICENSING OF DISPENSING ORGANIZATIONS AND
 1-51 REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS. (a) The
 1-52 department shall:

1-53 (1) issue or renew a license to operate as a dispensing
 1-54 organization to each applicant who satisfies the requirements
 1-55 established under this chapter; and

1-56 (2) register directors, managers, and employees of
 1-57 each dispensing organization.

1-58 (b) The department shall enforce compliance of licensees
 1-59 and registrants and shall adopt procedures for suspending or
 1-60 revoking a license or registration issued under this chapter and

2-1 for renewing a license or registration issued under this chapter.
2-2 Sec. 487.054. COMPASSIONATE-USE REGISTRY. (a) The
2-3 department shall establish and maintain a secure online
2-4 compassionate-use registry that contains:

2-5 (1) the name of each physician who registers as the
2-6 prescriber for a patient under Section 169.004, Occupations Code,
2-7 the name and date of birth of the patient, the dosage prescribed,
2-8 the means of administration ordered, and the total amount of
2-9 low-THC cannabis required to fill the patient's prescription; and

2-10 (2) a record of each amount of low-THC cannabis
2-11 dispensed by a dispensing organization to a patient under a
2-12 prescription.

2-13 (b) The department shall ensure the registry:

2-14 (1) is designed to prevent more than one qualified
2-15 physician from registering as the prescriber for a single patient;

2-16 (2) is accessible to law enforcement agencies and
2-17 dispensing organizations for the purpose of verifying whether a
2-18 patient is one for whom low-THC cannabis is prescribed and whether
2-19 the patient's prescriptions have been filled; and

2-20 (3) allows a physician qualified to prescribe low-THC
2-21 cannabis under Section 169.002, Occupations Code, to input safety
2-22 and efficacy data derived from the treatment of patients for whom
2-23 low-THC cannabis is prescribed under Chapter 169, Occupations Code.

2-24 SUBCHAPTER C. LICENSE TO OPERATE AS DISPENSING ORGANIZATION

2-25 Sec. 487.101. LICENSE REQUIRED. A license issued by the
2-26 department under this chapter is required to operate a dispensing
2-27 organization.

2-28 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a
2-29 license to operate as a dispensing organization is eligible for the
2-30 license if:

2-31 (1) as determined by the department, the applicant
2-32 possesses:

2-33 (A) the technical and technological ability to
2-34 cultivate and produce low-THC cannabis;

2-35 (B) the ability to secure:

2-36 (i) the resources and personnel necessary
2-37 to operate as a dispensing organization; and

2-38 (ii) premises reasonably located to allow
2-39 patients listed on the compassionate-use registry access to the
2-40 organization through existing infrastructure;

2-41 (C) the ability to maintain accountability for
2-42 the raw materials, the finished product, and any by-products used
2-43 or produced in the cultivation or production of low-THC cannabis to
2-44 prevent unlawful access to or unlawful diversion or possession of
2-45 those materials, products, or by-products; and

2-46 (D) the financial ability to maintain operations
2-47 for not less than two years from the date of application;

2-48 (2) each director, manager, or employee of the
2-49 applicant is registered under Subchapter D; and

2-50 (3) the applicant satisfies any additional criteria
2-51 determined by the director to be necessary to safely implement this
2-52 chapter.

2-53 Sec. 487.103. APPLICATION. (a) A person may apply for an
2-54 initial or renewal license to operate as a dispensing organization
2-55 by submitting a form prescribed by the department along with the
2-56 application fee in an amount set by the director.

2-57 (b) The application must include the name and address of the
2-58 applicant, the name and address of each of the applicant's
2-59 directors, managers, and employees, and any other information
2-60 considered necessary by the department to determine the applicant's
2-61 eligibility for the license.

2-62 Sec. 487.104. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

2-63 (a) The department shall issue or renew a license to operate as a
2-64 dispensing organization only if:

2-65 (1) the department determines the applicant meets the
2-66 eligibility requirements described by Section 487.102; and

2-67 (2) issuance or renewal of the license is necessary to
2-68 ensure reasonable statewide access to, and the availability of,
2-69 low-THC cannabis for patients registered in the compassionate-use

3-1 registry and for whom low-THC cannabis is prescribed under Chapter
 3-2 169, Occupations Code.

3-3 (b) If the department denies the issuance or renewal of a
 3-4 license under Subsection (a), the applicant is entitled to a
 3-5 hearing. The department shall give written notice of the grounds
 3-6 for denial to the applicant at least 30 days before the date of the
 3-7 hearing.

3-8 (c) A license issued or renewed under this section expires
 3-9 on the second anniversary of the date of issuance or renewal, as
 3-10 applicable.

3-11 Sec. 487.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An
 3-12 applicant for the issuance or renewal of a license to operate as a
 3-13 dispensing organization shall provide the department with the
 3-14 applicant's name and the name of each of the applicant's directors,
 3-15 managers, and employees.

3-16 (b) Before a dispensing organization licensee hires a
 3-17 manager or employee for the organization, the licensee must provide
 3-18 the department with the name of the prospective manager or
 3-19 employee. The licensee may not transfer the license to another
 3-20 person before that prospective applicant and the applicant's
 3-21 directors, managers, and employees pass a criminal history
 3-22 background check and are registered as required by Subchapter D.

3-23 (c) The department shall conduct a criminal history
 3-24 background check on each individual whose name is provided to the
 3-25 department under Subsection (a) or (b). The director by rule shall:

3-26 (1) determine the manner by which an individual is
 3-27 required to submit a complete set of fingerprints to the department
 3-28 for purposes of a criminal history background check under this
 3-29 section; and

3-30 (2) establish criteria for determining whether an
 3-31 individual passes the criminal history background check for the
 3-32 purposes of this section.

3-33 (d) After conducting a criminal history background check
 3-34 under this section, the department shall notify the relevant
 3-35 applicant or organization and the individual who is the subject of
 3-36 the criminal history background check as to whether the individual
 3-37 passed the criminal history background check.

3-38 Sec. 487.106. DUTY TO MAINTAIN ELIGIBILITY. A dispensing
 3-39 organization must maintain compliance at all times with the
 3-40 eligibility requirements described by Section 487.102.

3-41 Sec. 487.107. DUTIES RELATING TO DISPENSING PRESCRIPTION.

3-42 (a) Before dispensing low-THC cannabis to a person for whom the
 3-43 low-THC cannabis is prescribed under Chapter 169, Occupations Code,
 3-44 the dispensing organization must verify that the prescription
 3-45 presented:

3-46 (1) is for a person listed as a patient in the
 3-47 compassionate-use registry;

3-48 (2) matches the entry in the compassionate-use
 3-49 registry with respect to the total amount of low-THC cannabis
 3-50 required to fill the prescription; and

3-51 (3) has not previously been filled by a dispensing
 3-52 organization as indicated by an entry in the compassionate-use
 3-53 registry.

3-54 (b) After dispensing low-THC cannabis to a patient for whom
 3-55 the low-THC cannabis is prescribed under Chapter 169, Occupations
 3-56 Code, the dispensing organization shall record in the
 3-57 compassionate-use registry the form and quantity of low-THC
 3-58 cannabis dispensed and the date and time of dispensation.

3-59 Sec. 487.108. LICENSE SUSPENSION OR REVOCATION. (a) The
 3-60 department may at any time suspend or revoke a license issued under
 3-61 this chapter if the department determines that the licensee has not
 3-62 maintained the eligibility requirements described by Section
 3-63 487.102 or has failed to comply with a duty imposed under this
 3-64 chapter.

3-65 (b) The director shall give written notice to the dispensing
 3-66 organization of a license suspension or revocation under this
 3-67 section and the grounds for the suspension or revocation. The
 3-68 notice must be sent by certified mail, return receipt requested.

3-69 (c) After suspending or revoking a license issued under this

4-1 chapter, the director may seize or place under seal all low-THC
4-2 cannabis and drug paraphernalia owned or possessed by the
4-3 dispensing organization. If the director orders the revocation of
4-4 the license, a disposition may not be made of the seized or sealed
4-5 low-THC cannabis or drug paraphernalia until the time for
4-6 administrative appeal of the order has elapsed or until all appeals
4-7 have been concluded. When a revocation order becomes final, all
4-8 low-THC cannabis and drug paraphernalia may be forfeited to the
4-9 state as provided under Subchapter E, Chapter 481.

4-10 (d) Chapter 2001, Government Code, applies to a proceeding
4-11 under this section.

4-12 SUBCHAPTER D. REGISTRATION OF CERTAIN INDIVIDUALS

4-13 Sec. 487.151. REGISTRATION REQUIRED. (a) An individual
4-14 who is a director, manager, or employee of a dispensing
4-15 organization must apply for and obtain a registration under this
4-16 section.

4-17 (b) An applicant for a registration under this section must:

4-18 (1) be at least 18 years of age;

4-19 (2) submit a complete set of fingerprints to the
4-20 department in the manner required by department rule; and

4-21 (3) pass a fingerprint-based criminal history
4-22 background check as required by Section 487.105.

4-23 (c) A registration expires on the second anniversary of the
4-24 date of the registration's issuance, unless suspended or revoked
4-25 under rules adopted under this chapter.

4-26 SUBCHAPTER E. DUTIES OF COUNTIES AND MUNICIPALITIES

4-27 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
4-28 LOW-THC CANNABIS. A municipality, county, or other political
4-29 subdivision may not enact, adopt, or enforce a rule, ordinance,
4-30 order, resolution, or other regulation that prohibits the
4-31 cultivation, production, dispensing, or possession of low-THC
4-32 cannabis, as authorized by this chapter.

4-33 SECTION 2. Section 481.062(a), Health and Safety Code, as
4-34 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
4-35 2015, is amended to read as follows:

4-36 (a) The following persons are not required to register and
4-37 may possess a controlled substance under this chapter:

4-38 (1) an agent or employee of a registered manufacturer,
4-39 distributor, analyzer, or dispenser of the controlled substance
4-40 acting in the usual course of business or employment;

4-41 (2) a common or contract carrier, a warehouseman, or
4-42 an employee of a carrier or warehouseman whose possession of the
4-43 controlled substance is in the usual course of business or
4-44 employment;

4-45 (3) an ultimate user or a person in possession of the
4-46 controlled substance under a lawful order of a practitioner or in
4-47 lawful possession of the controlled substance if it is listed in
4-48 Schedule V;

4-49 (4) an officer or employee of this state, another
4-50 state, a political subdivision of this state or another state, or
4-51 the United States who is lawfully engaged in the enforcement of a
4-52 law relating to a controlled substance or drug or to a customs law
4-53 and authorized to possess the controlled substance in the discharge
4-54 of the person's official duties; ~~or~~

4-55 (5) if the substance is tetrahydrocannabinol or one of
4-56 its derivatives:

4-57 (A) a Department of State Health Services
4-58 official, a medical school researcher, or a research program
4-59 participant possessing the substance as authorized under
4-60 Subchapter G; or

4-61 (B) a practitioner or an ultimate user possessing
4-62 the substance as a participant in a federally approved therapeutic
4-63 research program that the commissioner has reviewed and found, in
4-64 writing, to contain a medically responsible research protocol; or

4-65 (6) a dispensing organization licensed under Chapter
4-66 487 that possesses low-THC cannabis.

4-67 SECTION 3. Section 481.111, Health and Safety Code, is
4-68 amended by adding Subsections (e) and (f) to read as follows:

4-69 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not

5-1 apply to a person who engages in the acquisition, possession,
5-2 production, cultivation, delivery, or disposal of a raw material
5-3 used in or by-product created by the production or cultivation of
5-4 low-THC cannabis if the person:

5-5 (1) for an offense involving possession only of
5-6 marihuana or drug paraphernalia, is a patient for whom low-THC
5-7 cannabis is prescribed under Chapter 169, Occupations Code, or the
5-8 patient's legal guardian, and the person possesses low-THC cannabis
5-9 obtained under a valid prescription from a dispensing organization;
5-10 or

5-11 (2) is a director, manager, or employee of a
5-12 dispensing organization and the person, solely in performing the
5-13 person's regular duties at the organization, acquires, possesses,
5-14 produces, cultivates, dispenses, or disposes of:

5-15 (A) in reasonable quantities, any low-THC
5-16 cannabis or raw materials used in or by-products created by the
5-17 production or cultivation of low-THC cannabis; or

5-18 (B) any drug paraphernalia used in the
5-19 acquisition, possession, production, cultivation, delivery, or
5-20 disposal of low-THC cannabis.

5-21 (f) For purposes of Subsection (e):

5-22 (1) "Dispensing organization" has the meaning
5-23 assigned by Section 487.001.

5-24 (2) "Low-THC cannabis" has the meaning assigned by
5-25 Section 169.001, Occupations Code.

5-26 SECTION 4. Subtitle B, Title 3, Occupations Code, is
5-27 amended by adding Chapter 169 to read as follows:

5-28 CHAPTER 169. AUTHORITY TO PRESCRIBE LOW-THC CANNABIS TO CERTAIN
5-29 PATIENTS FOR COMPASSIONATE USE

5-30 Sec. 169.001. DEFINITIONS. In this chapter:

5-31 (1) "Department" means the Department of Public
5-32 Safety.

5-33 (2) "Intractable epilepsy" means a seizure disorder in
5-34 which the patient's seizures have been treated by two or more
5-35 appropriately chosen and maximally titrated antiepileptic drugs
5-36 that have failed to control the seizures.

5-37 (3) "Low-THC cannabis" means the plant Cannabis sativa
5-38 L., and any part of that plant or any compound, manufacture, salt,
5-39 derivative, mixture, preparation, resin, or oil of that plant that
5-40 contains:

5-41 (A) not more than 0.5 percent by weight of
5-42 tetrahydrocannabinols; and

5-43 (B) not less than 10 percent by weight of
5-44 cannabidiol.

5-45 (4) "Medical use" means the ingestion by a means of
5-46 administration other than by smoking of a prescribed amount of
5-47 low-THC cannabis by a person for whom low-THC cannabis is
5-48 prescribed under this chapter.

5-49 (5) "Smoking" means burning or igniting a substance
5-50 and inhaling the smoke.

5-51 Sec. 169.002. PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC
5-52 CANNABIS. (a) Only a physician qualified as provided by this
5-53 section may prescribe low-THC cannabis in accordance with this
5-54 chapter.

5-55 (b) A physician is qualified to prescribe low-THC cannabis
5-56 to a patient with intractable epilepsy if the physician:

5-57 (1) is licensed under this subtitle;

5-58 (2) dedicates a significant portion of clinical
5-59 practice to the evaluation and treatment of epilepsy; and

5-60 (3) is certified:

5-61 (A) by the American Board of Psychiatry and
5-62 Neurology in:

5-63 (i) epilepsy; or

5-64 (ii) neurology or neurology with special
5-65 qualification in child neurology and is otherwise qualified for the
5-66 examination for certification in epilepsy; or

5-67 (B) in neurophysiology by:

5-68 (i) the American Board of Psychiatry and
5-69 Neurology; or

6-1 (ii) the American Board of Clinical
6-2 Neurophysiology.

6-3 Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. A
6-4 physician described by Section 169.002 may prescribe low-THC
6-5 cannabis to alleviate a patient's seizures if:

6-6 (1) the patient is a permanent resident of the state;

6-7 (2) the physician complies with the registration
6-8 requirements of Section 169.004; and

6-9 (3) the physician certifies to the department that:

6-10 (A) the patient is diagnosed with intractable
6-11 epilepsy;

6-12 (B) the physician determines the risk of the
6-13 medical use of low-THC cannabis by the patient is reasonable in
6-14 light of the potential benefit for the patient; and

6-15 (C) a second physician qualified to prescribe
6-16 low-THC cannabis under Section 169.002 has concurred with the
6-17 determination under Paragraph (B), and the second physician's
6-18 concurrence is recorded in the patient's medical record.

6-19 Sec. 169.004. LOW-THC CANNABIS PRESCRIBER REGISTRATION.
6-20 Before a physician qualified to prescribe low-THC cannabis under
6-21 Section 169.002 may prescribe or renew a prescription for low-THC
6-22 cannabis for a patient under this chapter, the physician must
6-23 register as the prescriber for that patient in the
6-24 compassionate-use registry maintained by the department under
6-25 Section 487.054, Health and Safety Code. The physician's
6-26 registration must indicate:

6-27 (1) the physician's name;

6-28 (2) the patient's name and date of birth;

6-29 (3) the dosage prescribed to the patient;

6-30 (4) the means of administration ordered for the
6-31 patient; and

6-32 (5) the total amount of low-THC cannabis required to
6-33 fill the patient's prescription.

6-34 Sec. 169.005. PATIENT TREATMENT PLAN. A physician
6-35 described by Section 169.002 who prescribes low-THC cannabis for a
6-36 patient's medical use under this chapter must maintain a patient
6-37 treatment plan that indicates:

6-38 (1) the dosage, means of administration, and planned
6-39 duration of treatment for the low-THC cannabis;

6-40 (2) a plan for monitoring the patient's symptoms; and

6-41 (3) a plan for monitoring indicators of tolerance or
6-42 reaction to low-THC cannabis.

6-43 SECTION 5. Section 551.004(a), Occupations Code, is amended
6-44 to read as follows:

6-45 (a) This subtitle does not apply to:

6-46 (1) a practitioner licensed by the appropriate state
6-47 board who supplies a patient of the practitioner with a drug in a
6-48 manner authorized by state or federal law and who does not operate a
6-49 pharmacy for the retailing of prescription drugs;

6-50 (2) a member of the faculty of a college of pharmacy
6-51 recognized by the board who is a pharmacist and who performs the
6-52 pharmacist's services only for the benefit of the college;

6-53 (3) a person who procures prescription drugs for
6-54 lawful research, teaching, or testing and not for resale; ~~or~~

6-55 (4) a home and community support services agency that
6-56 possesses a dangerous drug as authorized by Section 142.0061,
6-57 142.0062, or 142.0063, Health and Safety Code; or

6-58 (5) a dispensing organization, as defined by Section
6-59 487.001, Health and Safety Code, that cultivates, processes, and
6-60 dispenses low-THC cannabis, as authorized by Chapter 487, Health
6-61 and Safety Code, to a patient listed in the compassionate-use
6-62 registry established under that chapter.

6-63 SECTION 6. (a) Not later than December 1, 2015, the public
6-64 safety director of the Department of Public Safety shall adopt
6-65 rules as required to implement, administer, and enforce Chapter
6-66 487, Health and Safety Code, as added by this Act, including rules
6-67 to establish the compassionate-use registry required by that
6-68 chapter.

6-69 (b) Not later than September 1, 2017, the Department of

7-1 Public Safety shall license at least three dispensing organizations
7-2 in accordance with Section 487.053, Health and Safety Code, as
7-3 added by this Act, provided at least three applicants for a license
7-4 to operate as a dispensing organization have met the requirements
7-5 for approval provided by Subchapter C, Chapter 487, Health and
7-6 Safety Code, as added by this Act.
7-7 SECTION 7. This Act takes effect immediately if it receives
7-8 a vote of two-thirds of all the members elected to each house, as
7-9 provided by Section 39, Article III, Texas Constitution. If this
7-10 Act does not receive the vote necessary for immediate effect, this
7-11 Act takes effect September 1, 2015.

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