

BILL ANALYSIS

C.S.H.B. 3587
By: Zedler
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed a preference for state grown hemp products over imported hemp products and assert that allowing the cultivation of hemp in Texas will provide an economic boon to the state. C.S.H.B. 3587 seeks to address this issue by providing for the production of industrial hemp in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Agriculture and to the State Seed and Plant Board in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 3587 amends the Agriculture Code to require the Department of Agriculture (TDA), in cooperation with selected institutions of higher education with expertise in agricultural research, to promote the research and development of industrial hemp and commercial markets for industrial hemp and hemp-derived products. The bill requires the TDA to research industrial hemp production through the establishment and oversight of an industrial hemp research program lasting at least five years; to select an institution of higher education to manage the research program, which must consist primarily of demonstration plots planted and cultivated in Texas by selected license holders; and to obtain any federal permit or waiver necessary to conduct the research program from the U.S. Drug Enforcement Agency (DEA) or the appropriate federal agency. The bill sets out required research and analysis components for the research program and, in addition to providing for that research and analysis, requires the TDA to coordinate with an institution of higher education to study the use of industrial hemp in new energy technologies and to promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp-derived products in order to diversify the agricultural economy of Texas, attract new businesses to Texas, create new job opportunities for Texas residents, and create a commercial market for industrial hemp. The bill authorizes the TDA to solicit and accept gifts, grants, and donations from public and private sources to implement the research program and requires the TDA, not later than December 31 of each year, to report on the status and progress of the research program to the governor and the legislature.

C.S.H.B. 3587 requires the TDA to adopt rules to regulate industrial hemp production in Texas, including rules specified by the bill, and requires the rules to be comparable to similar rules governing the production of other crops. The bill defines, among other terms, "industrial hemp" as a plant or any part of a plant, whether growing or not, of the species *Cannabis sativa L.* with a

delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

C.S.H.B. 3587 authorizes a person to grow or cultivate industrial hemp under the bill's provisions only to the extent allowed by federal law and prohibits a person from growing or cultivating industrial hemp in Texas unless the person holds an industrial hemp producer's license. The bill requires an applicant for a license to apply to the TDA and pay the required application fee, sets out application requirements, and prescribes the deadline by which the TDA is required to issue a license to a qualified applicant after receiving the completed application and required fee. The bill requires the TDA to send a copy of each issued license to the sheriff for each county where the license holder will grow or cultivate industrial hemp, including the global positioning system coordinates of each location where the license holder will grow or cultivate industrial hemp. The bill makes a license valid for one year and provides for the renewal and revocation of a license. The bill requires the TDA to prescribe reasonable license application and renewal fees, inspection fees, and plant sample testing fees in amounts comparable to fees associated with the production of other crops and restricts the appropriation of the fees to the TDA for the purpose of administering the bill's industrial hemp production provisions. The bill authorizes the TDA to inspect plants grown or cultivated by a license holder to determine whether the plants are being grown or cultivated in compliance with TDA rules and meet the THC compliance threshold, defined by the bill as a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis for industrial hemp or in a hemp-derived product. The bill requires inspections and testing to be conducted according to best practices established by the TDA and institutions of higher education.

C.S.H.B. 3587 authorizes the TDA or the State Seed and Plant Board to certify industrial hemp seed and industrial hemp plants, cultivars, and clones under statutory provisions relating to the inspection, labeling, and sale of agricultural and vegetable seed or statutory provisions relating to seed and plant certification. The bill authorizes the TDA or the board to adopt rules necessary to implement such certification. The bill authorizes a license holder, the TDA, or an institution of higher education to transport and use industrial hemp plants, industrial hemp plant clones, and other industrial hemp cultivars from states that allow the cultivation of industrial hemp in compliance with federal law and requires the TDA to acquire any necessary permits from the U.S. DEA to acquire industrial hemp seed from domestic and foreign sources. The bill requires the TDA to suspend the certification of certified industrial hemp seed, cultivars, or clones if the collective yield and average samplings from seed, cultivar, or clone inspections exceed the THC compliance threshold and requires such seed, cultivars, or clones to be destroyed at the license holder's expense according to TDA rules.

C.S.H.B. 3587 excludes industrial hemp grown or cultivated by the TDA, an institution of higher education, or a license holder and hemp-derived products that meet the THC compliance threshold from the term "marijuana" for purposes of the Texas Controlled Substances Act. The bill exempts certain conduct relating to industrial hemp or hemp-derived products from the application of certain offenses under that act with certain exceptions.

C.S.H.B. 3587 amends the Health and Safety Code to make a conforming change.

C.S.H.B. 3587 requires the TDA, not later than January 1, 2018, to adopt rules necessary to implement the bill's industrial hemp production provisions.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3587 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 61.001(1), Agriculture Code, is amended.

SECTION 2. The heading to Subtitle E, Title 5, Agriculture Code, is amended.

SECTION 3. Subtitle E, Title 5, Agriculture Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. PRODUCTION OF INDUSTRIAL HEMP
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITIONS.

Sec. 112.002. INDUSTRIAL HEMP RESEARCH. The department or an institution of higher education may research the cultivation of industrial hemp using certified or noncertified seed, cultivars, and clones.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Subtitle E, Title 5, Agriculture Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. PRODUCTION OF INDUSTRIAL HEMP
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITIONS

Sec. 112.0015. COMPLIANCE WITH FEDERAL LAW. Notwithstanding any other provision of this chapter, a person may grow or cultivate industrial hemp under this chapter only to the extent allowed by federal law.

Sec. 112.002. INDUSTRIAL HEMP RESEARCH. (a) The department, in cooperation with selected institutions of higher education with expertise in agricultural research, shall promote the research and development of industrial hemp and commercial markets for industrial hemp and hemp-derived products.

(b) The department shall research industrial hemp production through the establishment and oversight of an industrial hemp research program lasting at least five years. The department shall select an institution of higher education to manage the research program. The research program must consist primarily of demonstration plots planted and cultivated in this state by selected license holders.

(c) The department shall obtain any federal permit or waiver necessary to conduct the industrial hemp research program from the United States Drug Enforcement Agency or the appropriate federal agency.

(d) As part of the industrial hemp research program, the department shall, through the institution of higher education selected under Subsection (b) and other research partners:

- (1) oversee and analyze the growth of industrial hemp by license holders for agronomy research, including analysis of required soils, growing conditions, and harvest methods for industrial hemp varieties that may be suitable for the production of commercial hemp products;
- (2) conduct seed research on various types of industrial hemp that are best suited to be grown in this state, including seed availability, creation of Texas hybrid types, in-the-ground variety trials and seed production, and the feasibility of a program to recognize certain industrial hemp seed as being Texas heritage hemp seed;
- (3) study the economic feasibility of developing an industrial hemp market for various types of industrial hemp that can be grown in this state;
- (4) report on the estimated value-added benefits, including environmental benefits, to businesses in this state of creating a market for industrial hemp produced in this state;
- (5) study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
- (6) research and promote industrial hemp and hemp seed on the world market that can be produced in this state; and
- (7) study the feasibility of attracting federal and private funding for the research program under this section.
- (e) In addition to the research and analysis under Subsection (d), the department shall:
- (1) coordinate with an institution of higher education to study the use of industrial hemp in new energy technologies, including:
- (A) an evaluation of the use of industrial hemp to generate electricity and to produce biofuels and other forms of energy resources;
- (B) the growth of industrial hemp on reclaimed oil and gas lands, mine sites, and wind farms;
- (C) the use of hemp seed oil in the production of fuels; and
- (D) an assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and
- (2) promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies

that manufacture industrial hemp into hemp-derived products in order to diversify the agricultural economy of this state, attract new businesses to this state, create new job opportunities for residents of this state, and create a commercial market for industrial hemp.

(f) The department may solicit and accept gifts, grants, and donations from public and private sources to implement the research program under this section.

(g) Not later than December 31 of each year, the department shall report on the status and progress of the research program under this section to the governor and the legislature.

Sec. 112.003. LEGISLATIVE INTENT REGARDING COMPLIANCE RESPONSIBILITIES.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 112.051. RULES.

Sec. 112.052. FEES.

Sec. 112.053. INSPECTIONS.

SUBCHAPTER C. INDUSTRIAL HEMP PRODUCER'S LICENSE

Sec. 112.101. LICENSE REQUIRED.

Sec. 112.102. ISSUANCE OF LICENSE.

Sec. 112.103. LICENSE TERM.

Sec. 112.104. REVOCATION. The department shall revoke a license if the department finds that the license holder violated this chapter, a rule adopted under this chapter, or is intentionally or knowingly growing plants with the intent to produce marihuana.

SUBCHAPTER D. INDUSTRIAL HEMP SEED, CULTIVARS, AND CLONES

Sec. 112.151. SEED, CULTIVAR, AND CLONE CERTIFICATION.

Sec. 112.152. ACQUISITION OF SEEDS AND PLANTS.

Sec. 112.003. LEGISLATIVE INTENT REGARDING COMPLIANCE RESPONSIBILITIES.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 112.051. RULES.

Sec. 112.052. FEES.

Sec. 112.053. INSPECTIONS.

SUBCHAPTER C. INDUSTRIAL HEMP PRODUCER'S LICENSE

Sec. 112.101. LICENSE REQUIRED.

Sec. 112.102. ISSUANCE OF LICENSE.

Sec. 112.103. LICENSE TERM.

Sec. 112.104. REVOCATION. The department shall revoke a license if the department finds that the license holder violated this chapter or a rule adopted under this chapter, or is intentionally or knowingly growing plants with the intent to produce marihuana.

SUBCHAPTER D. INDUSTRIAL HEMP SEED, CULTIVARS, AND CLONES

Sec. 112.151. SEED, CULTIVAR, AND CLONE CERTIFICATION.

Sec. 112.152. ACQUISITION OF SEEDS AND PLANTS.

Sec. 112.153. INDUSTRIAL HEMP EXCEEDING THC COMPLIANCE THRESHOLD.

SUBCHAPTER E. EXCEPTIONS FROM MARIHUANA LAWS FOR INDUSTRIAL HEMP

Sec. 112.201. APPLICABILITY OF OTHER LAW.

SECTION 4. Section 481.002(26), Health and Safety Code, is amended

SECTION 5. Not later than January 1, 2018, the Department of Agriculture shall adopt rules necessary to implement Chapter 112, Agriculture Code, as added by this Act.

SECTION 6. This Act takes effect September 1, 2017.

Sec. 112.153. INDUSTRIAL HEMP EXCEEDING THC COMPLIANCE THRESHOLD.

SUBCHAPTER E. EXCEPTIONS FROM MARIHUANA LAWS FOR INDUSTRIAL HEMP

Sec. 112.201. APPLICABILITY OF OTHER LAW.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.