

By: Zedler

H.B. No. 3587

A BILL TO BE ENTITLED

AN ACT

relating to industrial hemp; requiring an occupational license; authorizing fees.

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

SECTION 1. Section 61.001(1), Agriculture Code, is amended to read as follows:

(1) "Agricultural seed" includes the seed of any grass, forage, cereal, or fiber crop, any other kind of seed commonly recognized in this state as agricultural or field seed, and any mixture of those seeds. The term includes the seed of industrial hemp, as that term is defined by Section 112.001.

SECTION 2. The heading to Subtitle E, Title 5, Agriculture Code, is amended to read as follows:

SUBTITLE E. PRODUCTION, PROCESSING, AND SALE OF FIBER PRODUCTS

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. In this chapter:

(1) "Collective yield" means a hammer milled, pulverized, or ground sample of a whole plant, including roots, stalks, leaves, flowers, and seeds.

(2) "Compliant use" means the use or recommended use of a hemp-derived product with a delta-9 tetrahydrocannabinol

1 concentration of not more than 0.3 percent for any purpose,
2 including food for human consumption, human application, feed for
3 animal consumption, animal application, fiber production, or
4 product manufacturing.

5 (3) "Hemp-derived product" includes:

6 (A) a plant segment; and

7 (B) an end product derived from an industrial
8 hemp plant or a plant segment, including extract, oil, grain, cake,
9 meal, flower, resin, fiber, or hurd.

10 (4) "Industrial hemp" means a plant or any part of a
11 plant, whether growing or not, of the species Cannabis sativa L.
12 with a delta-9 tetrahydrocannabinol concentration of not more than
13 0.3 percent on a dry weight basis.

14 (5) "Institution of higher education" has the meaning
15 assigned by 20 U.S.C. Section 1001.

16 (6) "License" means an industrial hemp producer's
17 license issued under this chapter.

18 (7) "License holder" means a person who holds a
19 license.

20 (8) "Plant segment" means an individual segment of a
21 plant, including the roots, stalks, leaves, flowers, or seeds of a
22 plant.

23 (9) "THC compliance threshold" means a delta-9
24 tetrahydrocannabinol concentration of not more than 0.3 percent:

25 (A) on a dry weight basis for industrial hemp; or

26 (B) in a hemp-derived product.

27 Sec. 112.002. INDUSTRIAL HEMP RESEARCH. The department or

1 an institution of higher education may research the cultivation of
2 industrial hemp using certified or noncertified seed, cultivars,
3 and clones.

4 Sec. 112.003. LEGISLATIVE INTENT REGARDING COMPLIANCE
5 RESPONSIBILITIES. It is the intent of the legislature that:

6 (1) license holders be responsible for growing and
7 cultivating department-approved, certified industrial hemp seed,
8 cultivars, and clones that meet the THC compliance threshold and
9 are in compliance with other applicable laws;

10 (2) manufacturers of hemp-derived products for human
11 consumption be responsible for meeting the THC compliance threshold
12 and complying with applicable food manufacturing laws;

13 (3) manufacturers of hemp-derived products not for
14 human consumption be responsible for meeting the THC compliance
15 threshold and complying with other applicable laws; and

16 (4) wholesalers, retailers, and consumers of
17 hemp-derived products not be responsible for unknowingly buying or
18 selling products that do not meet the THC compliance threshold,
19 unless the person intentionally or knowingly adulterates the
20 product.

21 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

22 Sec. 112.051. RULES. (a) The department shall adopt rules
23 to regulate industrial hemp production in this state, including:

24 (1) license application and renewal procedures;

25 (2) requirements for license applicants and license
26 holders to provide global positioning system coordinates for each
27 location where the person grows or cultivates, or intends to grow or

1 cultivate, industrial hemp;

2 (3) plant inspection requirements;

3 (4) procedures to notify law enforcement officials of
4 the licensed growth or cultivation of industrial hemp;

5 (5) requirements for license holders to post notice of
6 industrial hemp cultivation; and

7 (6) provisions governing acquisition of certified
8 seed, cultivars, and clones by license holders and institutions of
9 higher education.

10 (b) Rules adopted under this chapter must be comparable to
11 similar rules governing the production of other crops.

12 Sec. 112.052. FEES. (a) The department shall prescribe
13 reasonable license application and renewal fees, inspection fees,
14 and plant sample testing fees in amounts comparable to fees
15 associated with the production of other crops.

16 (b) Fees collected under this chapter may be appropriated
17 only to the department for the purpose of administering this
18 chapter.

19 Sec. 112.053. INSPECTIONS. (a) The department may inspect
20 plants grown or cultivated by a license holder to determine whether
21 the plants meet the THC compliance threshold and are being grown or
22 cultivated in compliance with department rules.

23 (b) Inspections and testing under this chapter shall be
24 conducted according to best practices established by the department
25 and institutions of higher education.

26 SUBCHAPTER C. INDUSTRIAL HEMP PRODUCER'S LICENSE

27 Sec. 112.101. LICENSE REQUIRED. A person may not grow or

1 cultivate industrial hemp in this state unless the person is a
2 license holder.

3 Sec. 112.102. ISSUANCE OF LICENSE. (a) An applicant for a
4 license must apply to the department and pay the required
5 application fee.

6 (b) The application must:

7 (1) be notarized to affirm the applicant's identity;

8 (2) include the global positioning system coordinates
9 of each location where the applicant will grow or cultivate
10 industrial hemp; and

11 (3) include the contact information, including an
12 electronic mail address if available, of the sheriff for each
13 county where the applicant will grow or cultivate industrial hemp.

14 (c) The department shall issue a license to a qualified
15 applicant not later than the 60th day after the date the department
16 receives the completed application and the required fee.

17 (d) The department shall send a copy of each license issued
18 under this chapter to the sheriff for each county where the license
19 holder will grow or cultivate industrial hemp, including the global
20 positioning system coordinates of each location where the license
21 holder will grow or cultivate industrial hemp.

22 Sec. 112.103. LICENSE TERM. A license is valid for one year
23 and may be renewed as provided by department rule.

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

1 produce marihuana.

2 SUBCHAPTER D. INDUSTRIAL HEMP SEED, CULTIVARS, AND CLONES

3 Sec. 112.151. SEED, CULTIVAR, AND CLONE CERTIFICATION. (a)

4 The department or the State Seed and Plant Board may certify under
5 Chapter 61 or 62 industrial hemp seed and industrial hemp plants,
6 cultivars, and clones.

7 (b) The department or the State Seed and Plant Board may
8 adopt rules necessary to implement this section.

9 Sec. 112.152. ACQUISITION OF SEEDS AND PLANTS. (a) A

10 license holder, the department, or an institution of higher
11 education may transport and use industrial hemp plants, industrial
12 hemp plant clones, and other industrial hemp cultivars from states
13 that allow the cultivation of industrial hemp in compliance with
14 federal law.

15 (b) The department shall acquire any necessary permits from
16 the United States Drug Enforcement Administration to acquire
17 industrial hemp seed from domestic and foreign sources.

18 Sec. 112.153. INDUSTRIAL HEMP EXCEEDING THC COMPLIANCE

19 THRESHOLD. (a) The department shall suspend the certification of
20 certified industrial hemp seed, cultivars, or clones if the
21 collective yield and average samplings from seed, cultivar, or
22 clone inspections exceed the THC compliance threshold.

23 (b) Seed, cultivars, or clones for which the collective
24 yield and average samplings exceed the THC compliance threshold
25 shall be destroyed at the license holder's expense according to
26 department rules.

27 SUBCHAPTER E. EXCEPTIONS FROM MARIHUANA LAWS FOR INDUSTRIAL HEMP

1 Sec. 112.201. APPLICABILITY OF OTHER LAW. (a) The term
2 "marihuana," as defined by Section 481.002, Health and Safety Code,
3 does not include:

4 (1) industrial hemp grown or cultivated by the
5 department, an institution of higher education, or a license
6 holder; or

7 (2) a hemp-derived product that meets the THC
8 compliance threshold.

9 (b) Except as provided by Subsection (c), a person does not
10 violate Section 481.120, 481.121, 481.122, or 481.125, Health and
11 Safety Code, if the person:

12 (1) manufactures, delivers, or possesses a
13 hemp-derived product for a compliant use;

14 (2) manufactures, delivers, or possesses equipment
15 used for the manufacture or processing of a hemp-derived product
16 for a compliant use;

17 (3) grows industrial hemp, without intent, as the
18 result of the natural spread of seeds onto property owned or
19 controlled by the person; or

20 (4) is the department, an institution of higher
21 education, or a license holder and:

22 (A) grows, cultivates, manufactures, delivers,
23 or possesses industrial hemp;

24 (B) manufactures, delivers, or possesses
25 equipment used for the cultivation or processing of industrial
26 hemp; or

27 (C) without intent, grows or cultivates a plant

1 from a department-approved, certified seed, cultivar, or clone that
2 on inspection is found to exceed the THC compliance threshold if the
3 person destroys the plant in accordance with department rules as
4 soon as practicable after learning the plant exceeds the THC
5 compliance threshold.

6 (c) Subsection (b) does not apply to a person who
7 intentionally or knowingly grows a plant or produces a product with
8 the intent to produce marihuana.

9 SECTION 4. Section 481.002(26), Health and Safety Code, is
10 amended to read as follows:

11 (26) "Marihuana" means the plant *Cannabis sativa* L.,
12 whether growing or not, the seeds of that plant, and every compound,
13 manufacture, salt, derivative, mixture, or preparation of that
14 plant or its seeds. The term does not include:

15 (A) the resin extracted from a part of the plant
16 or a compound, manufacture, salt, derivative, mixture, or
17 preparation of the resin;

18 (B) the mature stalks of the plant or fiber
19 produced from the stalks;

20 (C) oil or cake made from the seeds of the plant;

21 (D) a compound, manufacture, salt, derivative,
22 mixture, or preparation of the mature stalks, fiber, oil, or cake;
23 [~~or~~]

24 (E) the sterilized seeds of the plant that are
25 incapable of beginning germination; or

26 (F) an item described by Section 112.201(a),
27 Agriculture Code.

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

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