

By: Blanco, Moody, Romero, Jr.

H.B. No. 4097

Substitute the following for H.B. No. 4097:

By: Zedler

C.S.H.B. No. 4097

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of medical cannabis by veterans for
3 post-traumatic stress disorder and the licensing of associated
4 cultivating or dispensing organizations; authorizing fees.

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

6 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is
7 amended by adding Chapter 488 to read as follows:

8 CHAPTER 488. MEDICAL CANNABIS FOR CERTAIN VETERANS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 488.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Health and Human Services
12 Commission.

13 (2) "Cultivating or dispensing facility" means a
14 facility that:

15 (A) cultivates, processes, manufactures, or
16 dispenses medical cannabis under this chapter; and

17 (B) is owned or operated by a cultivating or
18 dispensing organization licensed under Subchapter C.

19 (3) "Cultivating or dispensing organization" means an
20 organization that cultivates, processes, manufactures, or
21 dispenses medical cannabis under this chapter.

22 (4) "Executive commissioner" means the executive
23 commissioner of the Health and Human Services Commission.

24 (5) "Historically underutilized business" has the

1 meaning assigned by Section 2161.001, Government Code.

2 (6) "Medical cannabis" means the plant Cannabis sativa
3 L. and any part of that plant or any compound, manufacture, salt,
4 derivative, mixture, preparation, resin, or oil of that plant.

5 (7) "Post-traumatic stress disorder" means a disorder
6 that:

7 (A) meets the diagnostic criteria for
8 posttraumatic stress disorder specified by the American
9 Psychiatric Association in the Diagnostic and Statistical Manual of
10 Mental Disorders, fifth edition, or a later edition adopted by the
11 executive commissioner; and

12 (B) results in an impairment of a person's
13 functioning in the person's community, employment, family, school,
14 or social group.

15 (8) "Psychoactive medication" means a medication that
16 is prescribed for the treatment of symptoms of psychosis or other
17 severe mental or emotional disorders and that is used to exercise an
18 effect on the central nervous system to influence and modify
19 behavior, cognition, or affective state when treating the symptoms
20 of mental illness. The term includes the following categories when
21 used as described by this subdivision:

22 (A) antipsychotics or neuroleptics;

23 (B) antidepressants;

24 (C) agents for control of mania or depression;

25 (D) antianxiety agents;

26 (E) sedatives, hypnotics, or other
27 sleep-promoting drugs; and

1 (F) psychomotor stimulants.

2 (9) "Veteran" means an individual who has served in:

3 (A) the army, navy, air force, coast guard, or
4 marine corps of the United States;

5 (B) the state military forces, as defined by
6 Section 431.001, Government Code; or

7 (C) a reserve component of the armed forces of
8 the United States.

9 Sec. 488.002. ADMINISTRATION BY COMMISSION; RULES. (a)
10 The commission shall administer this chapter.

11 (b) The executive commissioner shall adopt any rules
12 necessary for the administration and enforcement of this chapter.

13 SUBCHAPTER B. PURCHASE OF MEDICAL CANNABIS

14 Sec. 488.051. ELIGIBILITY; PURCHASER PERMIT REQUIRED. A
15 veteran suffering from post-traumatic stress disorder is eligible
16 to purchase medical cannabis from a cultivating or dispensing
17 facility if the veteran is issued a purchaser permit under this
18 subchapter.

19 Sec. 488.052. APPLICATION. A veteran may apply to the
20 commission for a purchaser permit by submitting a completed
21 application form as prescribed by the commission and:

22 (1) proof of the veteran's military service; and

23 (2) proof of the veteran's post-traumatic stress
24 disorder, including:

25 (A) a written diagnosis from a physician;

26 (B) the veteran's current prescription for a
27 psychoactive medication; or

1 (C) any other proof acceptable to the commission
2 as provided by rule of the executive commissioner.

3 Sec. 488.053. ISSUANCE OF PERMIT. The commission shall
4 issue a purchaser permit to a veteran who submits an application
5 under Section 488.052 if the commission determines that the veteran
6 is eligible for the permit.

7 SUBCHAPTER C. CULTIVATING OR DISPENSING ORGANIZATION

8 Sec. 488.101. LICENSE REQUIRED. A cultivating or
9 dispensing organization may not cultivate, process, or dispense
10 medical cannabis for purposes of this chapter without a license
11 issued under this subchapter.

12 Sec. 488.102. ELIGIBILITY FOR LICENSE. To qualify for a
13 license under this subchapter, a cultivating or dispensing
14 organization must:

15 (1) for the purposes of research described by Section
16 488.103, have entered into a partnership with:

17 (A) a health system that owns or operates a
18 health care facility with at least 200 beds;

19 (B) a public university in this state; or

20 (C) a registered clinical research organization;

21 (2) have sufficient net cash assets to ensure
22 financial stability and continued operations;

23 (3) have sufficient documented experience in the
24 cultivation, extraction, manufacturing, or dispensing of cannabis
25 in a jurisdiction in which cannabis is legal; and

26 (4) demonstrate experience in extraction and
27 refinement of medical cannabis to create products in tightly

1 controlled ratios of tetrahydrocannabinol and cannabidiol.

2 Sec. 488.103. MEDICAL CANNABIS RESEARCH. (a) To maintain
3 eligibility for a license under this subchapter, a cultivating or
4 dispensing organization in conjunction with the other entity in a
5 partnership described by Section 488.102(1) shall conduct research
6 on a continual basis to determine the potential risks and benefits
7 of medical cannabis as a treatment for post-traumatic stress
8 disorder.

9 (b) A cultivating or dispensing organization shall use the
10 research conducted under Subsection (a) to provide the optimal
11 ratios of tetrahydrocannabinol and cannabidiol for the treatment of
12 post-traumatic stress disorder.

13 (c) The cultivating or dispensing organization shall make
14 the findings, conclusions, data, and methodology of the research
15 conducted under Subsection (a) available for peer review.

16 Sec. 488.104. LICENSE APPLICATION. (a) An eligible
17 cultivating or dispensing organization may apply for a license
18 under this subchapter by submitting an application, in the form
19 provided by the commission, along with the application fee
20 prescribed by Section 488.111.

21 (b) The application must:

22 (1) contain:

23 (A) the name and address of the applicant; and

24 (B) the name and address of each member of the
25 applicant's governing authority, as defined by Section 1.002,
26 Business Organizations Code;

27 (2) include a plan to hire a workforce for its

1 cultivating or dispensing facilities that, to the extent possible,
2 is composed of at least 33 percent veterans;

3 (3) include a plan to use technology and processes to
4 minimize water and electricity uses by the applicant's cannabis
5 cultivating and processing facilities while maintaining the
6 production of high quality medical cannabis;

7 (4) contain a detailed explanation of the applicant's
8 capability to cultivate and manufacture a sufficient amount of
9 quality-controlled medical cannabis to support the qualifying
10 veteran base in this state; and

11 (5) contain any other information considered
12 necessary by the commission to determine the applicant's
13 eligibility for the license.

14 Sec. 488.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An
15 applicant for the issuance or renewal of a license under this
16 subchapter shall provide to the Department of Public Safety the
17 applicant's name and the name of:

18 (1) each person who has a 20 percent equity interest in
19 the applicant; and

20 (2) each employee or prospective employee of each of
21 the applicant's cultivating or dispensing facilities.

22 (b) The Department of Public Safety shall conduct a criminal
23 history background check on each individual whose name is provided
24 to the department under Subsection (a). The public safety director
25 of the Department of Public Safety by rule shall:

26 (1) determine the manner by which an individual is
27 required to submit a complete set of fingerprints to the department

1 for purposes of a criminal history background check under this
2 section; and

3 (2) establish criteria for determining whether an
4 individual passes the criminal history background check for the
5 purposes of this section.

6 (c) After conducting a criminal history background check
7 under this section, the Department of Public Safety shall notify
8 the commission and the applicant organization or relevant facility
9 of the organization and the individual who is the subject of the
10 criminal history background check as to whether the individual
11 passed the criminal history background check.

12 Sec. 488.106. APPROVAL OR DENIAL OF APPLICATION. (a) The
13 commission shall approve the application and issue to the applicant
14 a license under this subchapter if the commission determines that:

15 (1) the applicant meets the eligibility requirements
16 of Section 488.102;

17 (2) the applicant satisfies any additional criteria
18 determined by the commission to be necessary to implement this
19 chapter; and

20 (3) issuance of the license is necessary to ensure
21 reasonable statewide access to, and the availability of, medical
22 cannabis for qualifying veterans under Subchapter B.

23 (b) The commission shall approve or deny the application not
24 later than the 120th day after the date of the filing of a completed
25 application with payment of the required fees under Section
26 488.111.

27 (c) If the commission denies the application, the

1 commission shall notify the applicant.

2 (d) If an applicant requests a hearing on the application
3 not later than the 30th day after the date of notification under
4 Subsection (c), the applicant is entitled to a hearing not later
5 than the 60th day after the date of the request.

6 Sec. 488.107. ORGANIZATION PREFERENCES. The commission
7 shall give preference to historically underutilized businesses in
8 the issuance or renewal of licenses under this subchapter.

9 Sec. 488.108. COMMENCEMENT OF OPERATIONS ON APPROVAL OF
10 APPLICATION. If an organization's application is approved, a
11 cultivating or dispensing facility owned or operated by the
12 organization shall commence operations in this state not later than
13 the 270th day after the date of the approval.

14 Sec. 488.109. DUTY TO MAINTAIN ELIGIBILITY. Each license
15 holder under this subchapter must maintain compliance at all times
16 with the eligibility requirements of Section 488.102 and continue
17 to perform the research required under Section 488.103.

18 Sec. 488.110. TERM OF LICENSE; RENEWAL. (a) A license
19 issued or renewed under this subchapter expires on the second
20 anniversary of the date of issuance or renewal, as applicable.

21 (b) A license holder may apply for renewal of a license as
22 prescribed by rule of the executive commissioner.

23 Sec. 488.111. FEES. The executive commissioner by rule
24 shall set application and licensing fees under this subchapter in
25 amounts sufficient to cover the cost of administering and enforcing
26 this chapter.

27 Sec. 488.112. LICENSE SUSPENSION OR REVOCATION. (a) The

1 commission may at any time suspend or revoke a license issued under
2 this subchapter if the commission determines that:

3 (1) the license holder has not maintained the
4 eligibility requirements described by Section 488.102 or continued
5 to perform research as required by Section 488.103;

6 (2) the license holder has failed to comply with this
7 chapter or a rule adopted under this chapter; or

8 (3) the license holder's cultivating or dispensing
9 facility has failed to comply with this chapter or a rule adopted
10 under this chapter.

11 (b) The commission shall give written notice to the license
12 holder of a license suspension or revocation under this section and
13 the grounds for the suspension or revocation. The notice must be
14 sent by certified mail, return receipt requested.

15 (c) After suspending or revoking a license issued under this
16 subchapter, the commission shall notify the public safety director
17 of the Department of Public Safety. The director may seize or place
18 under seal all medical cannabis and drug paraphernalia owned or
19 possessed by the license holder. If the commission orders the
20 revocation of the license, a disposition may not be made of the
21 seized or sealed medical cannabis or drug paraphernalia until the
22 time for administrative appeal of the order has elapsed or until all
23 appeals have been concluded. When a revocation order becomes
24 final, all medical cannabis and drug paraphernalia may be forfeited
25 to the state as provided under Subchapter E, Chapter 481.

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

1 SUBCHAPTER D. CULTIVATING AND MANUFACTURING PRACTICES

2 Sec. 488.151. POTENCY. Each medical cannabis product of a
3 cultivating or dispensing facility must consistently test within
4 five percent of the stated amount of tetrahydrocannabinol and
5 cannabidiol on the label of the product.

6 Sec. 488.152. SAFETY TESTING. (a) Medical cannabis
7 products of a cultivating or dispensing facility must be tested for
8 harmful substances, including microbials, pesticides, and residual
9 solvents.

10 (b) The executive commissioner shall consult with the
11 Department of Agriculture in adopting rules setting safety
12 standards for medical cannabis made available through a dispensary
13 under this chapter.

14 Sec. 488.153. GOOD MANUFACTURING PRACTICES. Medical
15 cannabis to be dispensed under this chapter must be produced using
16 good manufacturing practices, as defined by executive commissioner
17 rule.

18 SUBCHAPTER E. DISPENSING REGULATIONS

19 Sec. 488.201. FORM OF CANNABIS. (a) Medical cannabis may
20 be dispensed to veterans with a purchaser permit under Subchapter B
21 only as a pill, patch, oil, or other derivative form that may be
22 produced with consistent concentrations of tetrahydrocannabinol
23 and cannabidiol.

24 (b) Edible cannabis products may not be in shapes or forms
25 appealing to children.

26 Sec. 488.202. LABELING. Each product containing medical
27 cannabis dispensed under this chapter must bear a label that

1 clearly states the concentrations of tetrahydrocannabinol and
2 cannabidiol in the product.

3 SUBCHAPTER F. REQUIREMENTS FOR LICENSE HOLDERS AND FACILITIES

4 Sec. 488.251. CHARITABLE DONATIONS. A license holder must
5 annually donate at least five percent of the license holder's net
6 profit to a nonprofit organization that focuses on getting veterans
7 access to treatment for post-traumatic stress disorder.

8 Sec. 488.252. LOCATION. A cultivating or dispensing
9 facility owned or operated by a license holder may not be located
10 within 1,000 feet of a primary or secondary school or day-care
11 center that exists on the date of the license holder's initial
12 application for licensure under Subchapter C.

13 SECTION 2. Section 481.062(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) The following persons may possess a controlled
16 substance under this chapter without registering with the federal
17 [~~Federal~~] Drug Enforcement Administration:

18 (1) an agent or employee of a manufacturer,
19 distributor, analyzer, or dispenser of the controlled substance who
20 is registered with the federal [~~Federal~~] Drug Enforcement
21 Administration and acting in the usual course of business or
22 employment;

23 (2) a common or contract carrier, a warehouseman, or
24 an employee of a carrier or warehouseman whose possession of the
25 controlled substance is in the usual course of business or
26 employment;

27 (3) an ultimate user or a person in possession of the

1 controlled substance under a lawful order of a practitioner or in
2 lawful possession of the controlled substance if it is listed in
3 Schedule V;

4 (4) an officer or employee of this state, another
5 state, a political subdivision of this state or another state, or
6 the United States who is lawfully engaged in the enforcement of a
7 law relating to a controlled substance or drug or to a customs law
8 and authorized to possess the controlled substance in the discharge
9 of the person's official duties;

10 (5) if the substance is tetrahydrocannabinol or one of
11 its derivatives:

12 (A) a Department of State Health Services
13 official, a medical school researcher, or a research program
14 participant possessing the substance as authorized under
15 Subchapter G; or

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

20 (6) a dispensing organization licensed under Chapter
21 487 that possesses low-THC cannabis;

22 (7) a cultivating or dispensing organization licensed
23 under Subchapter C, Chapter 488, that possesses medical cannabis;

24 or

25 (8) an entity described by Section 488.102(1) in
26 partnership with a cultivating or dispensing organization licensed
27 under Subchapter C, Chapter 488, that possesses medical cannabis

1 for the purpose of research conducted under Section 488.103.

2 SECTION 3. Sections 481.111(e) and (f), Health and Safety
3 Code, are amended to read as follows:

4 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not
5 apply to a person who engages in the acquisition, possession,
6 production, cultivation, delivery, or disposal of a raw material
7 used in or by-product created by the production or cultivation of
8 low-THC cannabis or medical cannabis if the person:

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

15 (2) is a director, manager, or employee of a low-THC
16 cannabis dispensing organization and the person, solely in
17 performing the person's regular duties at the organization,
18 acquires, possesses, produces, cultivates, dispenses, or disposes
19 of:

20 (A) in reasonable quantities, any low-THC
21 cannabis or raw materials used in or by-products created by the
22 production or cultivation of low-THC cannabis; or

23 (B) any drug paraphernalia used in the
24 acquisition, possession, production, cultivation, delivery, or
25 disposal of low-THC cannabis;

26 (3) for an offense involving possession only of
27 marihuana or drug paraphernalia, is a patient who holds a purchaser

1 permit under Subchapter B, Chapter 488;

2 (4) is a member of the governing authority, as defined
3 by Section 1.002, Business Organizations Code, or a manager or
4 employee of a medical cannabis cultivating or dispensing
5 organization or facility and the person, solely in performing the
6 person's duties at the organization or facility, acquires,
7 possesses, produces, cultivates, delivers, or disposes of:

8 (A) in reasonable quantities, any medical
9 cannabis or raw materials used in or by-products created by the
10 production or cultivation of medical cannabis; or

11 (B) any drug paraphernalia used in the
12 acquisition, possession, production, cultivation, delivery, or
13 disposal of medical cannabis; or

14 (5) is a person associated with an entity described by
15 Section 488.102(1) in partnership with a medical cannabis
16 cultivating or dispensing organization and solely in the
17 performance of the person's duties performing research under
18 Section 488.103, the person acquires, possesses, produces,
19 cultivates, delivers, or disposes of:

20 (A) in reasonable quantities, any medical
21 cannabis or raw materials used in or by-products created by the
22 production or cultivation of medical cannabis; or

23 (B) any drug paraphernalia used in the
24 acquisition, possession, production, cultivation, delivery, or
25 disposal of medical cannabis.

26 (f) For purposes of Subsection (e):

27 (1) [~~"Dispensing organization" has the meaning~~

1 ~~assigned by Section 487.001.~~

2 ~~(2)~~ "Low-THC cannabis" has the meaning assigned by
3 Section 169.001, Occupations Code.

4 (2) "Low-THC cannabis dispensing organization" means
5 a dispensing organization as defined by Section 487.001.

6 (3) "Medical cannabis" has the meaning assigned by
7 Section 488.001.

8 (4) "Medical cannabis cultivating or dispensing
9 organization" means an organization licensed under Subchapter C,
10 Chapter 488.

11 SECTION 4. Section 551.004, Occupations Code, is amended by
12 amending Subsection (a) and adding Subsection (a-1) to read as
13 follows:

14 (a) This subtitle does not apply to:

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

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

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

24 (4) a home and community support services agency that
25 possesses a dangerous drug as authorized by Section 142.0061,
26 142.0062, or 142.0063, Health and Safety Code; ~~[or]~~

27 (5) a low-THC cannabis dispensing organization~~[, as~~

1 ~~defined by Section 487.001, Health and Safety Code,~~] that
2 cultivates, processes, and dispenses low-THC cannabis, as
3 authorized by a license issued under Subchapter C, Chapter 487,
4 Health and Safety Code, to a patient listed in the
5 compassionate-use registry established under that chapter; or
6 (6) a medical cannabis cultivating or dispensing
7 organization that cultivates, manufactures, or dispenses medical
8 cannabis, as authorized by a license issued under Subchapter C,
9 Chapter 488, Health and Safety Code, to a patient who holds a
10 purchaser permit under Subchapter B of that chapter.

11 (a-1) For purposes of Subsections (a)(5) and (6):

12 (1) "Low-THC cannabis dispensing organization" means
13 a dispensing organization as defined by Section 487.001, Health and
14 Safety Code.

15 (2) "Medical cannabis cultivating or dispensing
16 organization" means an organization licensed under Subchapter C,
17 Chapter 488, Health and Safety Code.

18 SECTION 5. Not later than July 1, 2020, the executive
19 commissioner of the Health and Human Services Commission shall
20 adopt all rules necessary to administer Chapter 488, Health and
21 Safety Code, as added by this Act, and provide copies of
22 applications for prospective cultivating or dispensing
23 organization licensees.

24 SECTION 6. After September 1, 2020, but not later than
25 January 1, 2021, the Health and Human Services Commission shall
26 begin accepting applications under Chapter 488, Health and Safety
27 Code, as added by this Act.

1 SECTION 7. This Act takes effect September 1, 2019.