

By: Blanco

H.B. No. 4097

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 488. MEDICAL CANNABIS FOR CERTAIN VETERANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 488.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

(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; and

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) have entered into a partnership in connection with  
16 the establishment or operation of a cultivating or dispensing  
17 facility with:

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

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

21                   (C) a registered clinical research organization;

22           (2) show that a partnership described by Subdivision  
23 (1) has equity partners at least 50 percent of which must:

24                   (A) have experience in owning 15 or more private  
25 cannabis investments;

26                   (B) have experience in owning five or more  
27 private health care ventures; and

1           (C) have resided in this state for five or more  
2 years;

3           (3) have net cash assets that include an account with  
4 at least \$5 million held at a financial institution as defined by  
5 Section 201.101, Finance Code; and

6           (4) have a management and operations team that meets  
7 the requirements of Section 488.103.

8           Sec. 488.103. ORGANIZATION OR FACILITY MANAGEMENT OR  
9 OPERATION TEAM. (a) At least one member of the cultivating or  
10 dispensing organization's governing authority or at least one  
11 manager of the organization's cultivating or dispensing facility  
12 must:

13           (1) have at least three years' experience in legal  
14 cannabis operations;

15           (2) have documented experience in the cultivation,  
16 extraction, manufacturing, or dispensing of cannabis in at least  
17 four jurisdictions in which cannabis is legal; and

18           (3) with respect to an organization that cultivates or  
19 processes medical cannabis:

20           (A) have experience overseeing at least five  
21 indoor or greenhouse cultivation and extraction facility  
22 operations with a total flowering canopy of not less than 100,000  
23 square feet; and

24           (B) demonstrate experience in extraction and  
25 refinement of medical cannabis to create products in tightly  
26 controlled ratios of tetrahydrocannabinol and cannabidiol.

27           (b) The operating team of the cultivating or dispensing

1 organization or a cultivating or dispensing facility of the  
2 organization must:

3 (1) have at least six years' experience in legal  
4 cannabis operations, collectively; and

5 (2) with respect to an organization that cultivates or  
6 processes medical cannabis, have overseen the growth of at least  
7 75,000 pounds of dry cannabis flower.

8 Sec. 488.104. LICENSE APPLICATION. (a) An eligible  
9 cultivating or dispensing organization may apply for a license  
10 under this subchapter by submitting an application, in the form  
11 provided by the commission, along with the application fee  
12 prescribed by Section 488.111.

13 (b) The application must:

14 (1) contain:

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

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

19 (2) include a plan to hire a workforce for its  
20 cultivating or dispensing facilities that, to the extent possible,  
21 is composed of at least 33 percent veterans;

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

26 (4) contain a detailed explanation of the applicant's  
27 capability to cultivate and manufacture a sufficient amount of

1 quality-controlled medical cannabis to support the qualifying  
2 veteran base in this state; and

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

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

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

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

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

18 (1) determine the manner by which an individual is  
19 required to submit a complete set of fingerprints to the department  
20 for purposes of a criminal history background check under this  
21 section; and

22 (2) establish criteria for determining whether an  
23 individual passes the criminal history background check for the  
24 purposes of this section.

25 (c) After conducting a criminal history background check  
26 under this section, the Department of Public Safety shall notify  
27 the commission and the applicant organization or relevant facility

1 of the organization and the individual who is the subject of the  
2 criminal history background check as to whether the individual  
3 passed the criminal history background check.

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

7 (1) the applicant meets the eligibility requirements  
8 of Section 488.102;

9 (2) the applicant satisfies any additional criteria  
10 determined by the commission to be necessary to implement this  
11 chapter; and

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

15 (b) The commission shall approve or deny the application not  
16 later than the 120th day after the date of the filing of a completed  
17 application with payment of the required fees under Section  
18 488.111.

19 (c) If the commission denies the application, the  
20 commission shall notify the applicant.

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

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



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

6       Sec. 488.109. DUTY TO MAINTAIN ELIGIBILITY. Each license  
7 holder under this subchapter must maintain compliance at all times  
8 with the eligibility requirements of Section 488.102.

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

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

14       Sec. 488.111. FEES. (a) The executive commissioner by rule  
15 shall set application and licensing fees under this subchapter in  
16 amounts sufficient to cover the cost of administering and enforcing  
17 this chapter.

18       (b) In adopting rules under Subsection (a), the executive  
19 commissioner shall:

20           (1) set an application fee in an amount that is at  
21 least \$10,000 but not more than \$25,000;

22           (2) set an initial licensing fee in an amount that is  
23 at least \$250,000 but not more than \$1 million; and

24           (3) set an annual licensing renewal fee in an amount  
25 that is at least \$15,000 but not more than \$25,000.

26       Sec. 488.112. LICENSE SUSPENSION OR REVOCATION. (a) The  
27 commission may at any time suspend or revoke a license issued under

1 this subchapter if the commission determines that:

2 (1) the license holder has not maintained the  
3 eligibility requirements described by Section 488.102;

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

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

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

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

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

26 SUBCHAPTER D. CULTIVATING AND MANUFACTURING PRACTICES

27 Sec. 488.151. POTENCY. Each medical cannabis product of a

1 cultivating or dispensing facility must consistently test within  
2 five percent of the stated amount of tetrahydrocannabinol and  
3 cannabidiol on the label of the product.

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

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

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

16 SUBCHAPTER E. DISPENSING REGULATIONS

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

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

24 Sec. 488.202. LABELING. Each product containing medical  
25 cannabis dispensed under this chapter must bear a label that  
26 clearly states the concentrations of tetrahydrocannabinol and  
27 cannabidiol in the product.

1        SUBCHAPTER F. REQUIREMENTS FOR LICENSEES AND FACILITIES

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

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

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

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

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

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

25            (3) an ultimate user or a person in possession of the  
26 controlled substance under a lawful order of a practitioner or in  
27 lawful possession of the controlled substance if it is listed in

1 Schedule V;

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

8 (5) if the substance is tetrahydrocannabinol or one of  
9 its derivatives:

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

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

18 (6) a dispensing organization licensed under Chapter  
19 487 that possesses low-THC cannabis; or

20 (7) a cultivating or dispensing organization licensed  
21 under Subchapter C, Chapter 488, that possesses medical cannabis.

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

24 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not  
25 apply to a person who engages in the acquisition, possession,  
26 production, cultivation, delivery, or disposal of a raw material  
27 used in or by-product created by the production or cultivation of

1 low-THC cannabis or medical cannabis if the person:

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

8 (2) is a director, manager, or employee of a low-THC  
9 cannabis dispensing organization and the person, solely in  
10 performing the person's regular duties at the organization,  
11 acquires, possesses, produces, cultivates, dispenses, or disposes  
12 of:

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

16 (B) any drug paraphernalia used in the  
17 acquisition, possession, production, cultivation, delivery, or  
18 disposal of low-THC cannabis;

19 (3) for an offense involving possession only of  
20 marihuana or drug paraphernalia, is a patient who holds a purchaser  
21 permit under Subchapter B, Chapter 488; or

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

1           (A) in reasonable quantities, any medical  
2 cannabis or raw materials used in or by-products created by the  
3 production or cultivation of medical cannabis; or

4           (B) any drug paraphernalia used in the  
5 acquisition, possession, production, cultivation, delivery, or  
6 disposal of medical cannabis.

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

8           (1) [~~"Dispensing organization" has the meaning~~  
9 ~~assigned by Section 487.001.~~

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

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

14           (3) "Medical cannabis" has the meaning assigned by  
15 Section 488.001.

16           (4) "Medical cannabis cultivating or dispensing  
17 organization" means an organization licensed under Subchapter C,  
18 Chapter 488.

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

22           (a) This subtitle does not apply to:

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

27           (2) a member of the faculty of a college of pharmacy

1 recognized by the board who is a pharmacist and who performs the  
2 pharmacist's services only for the benefit of the college;

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

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

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

14 (6) a medical cannabis cultivating or dispensing  
15 organization that cultivates, manufactures, or dispenses medical  
16 cannabis, as authorized by a license issued under Subchapter C,  
17 Chapter 488, Health and Safety Code, to a patient who holds a  
18 purchaser permit under Subchapter B of that chapter.

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

20 (1) "Low-THC cannabis dispensing organization" means  
21 a dispensing organization as defined by Section 487.001, Health and  
22 Safety Code.

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

26 SECTION 5. Not later than July 1, 2020, the executive  
27 commissioner of the Health and Human Services Commission shall



1 adopt all rules necessary to administer Chapter 488, Health and  
2 Safety Code, as added by this Act, and provide copies of  
3 applications for prospective cultivating or dispensing  
4 organization licensees.

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

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