

By: Menéndez

S.B. No. 116

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. COMPLIANCE WITH FEDERAL LAW. Notwithstanding

1 any other provision of this chapter, a person may grow or cultivate
2 industrial hemp under this chapter only to the extent allowed by
3 federal law.

4 Sec. 112.003. INDUSTRIAL HEMP RESEARCH. (a) The
5 department, in cooperation with selected institutions of higher
6 education with expertise in agricultural research, shall promote
7 the research and development of industrial hemp and commercial
8 markets for industrial hemp and hemp-derived products.

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

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

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

23 (1) oversee and analyze the growth of industrial hemp
24 by license holders for agronomy research, including analysis of
25 required soils, growing conditions, and harvest methods for
26 industrial hemp varieties that may be suitable for the production
27 of commercial hemp products;

1 (2) conduct seed research on various types of
2 industrial hemp that are best suited to be grown in this state,
3 including seed availability, creation of Texas hybrid types,
4 in-the-ground variety trials and seed production, and the
5 feasibility of a program to recognize certain industrial hemp seed
6 as being Texas heritage hemp seed;

7 (3) study the economic feasibility of developing an
8 industrial hemp market for various types of industrial hemp that
9 can be grown in this state;

10 (4) report on the estimated value-added benefits,
11 including environmental benefits, to businesses in this state of
12 creating a market for industrial hemp produced in this state;

13 (5) study the agronomy research being conducted
14 worldwide relating to industrial hemp varieties, production, and
15 utilization;

16 (6) research and promote industrial hemp and hemp seed
17 on the world market that can be produced in this state; and

18 (7) study the feasibility of attracting federal and
19 private funding for the research program under this section.

20 (e) In addition to the research and analysis under
21 Subsection (d), the department shall:

22 (1) coordinate with an institution of higher education
23 to study the use of industrial hemp in new energy technologies,
24 including:

25 (A) an evaluation of the use of industrial hemp
26 to generate electricity and to produce biofuels and other forms of
27 energy resources;

1 (B) the growth of industrial hemp on reclaimed
2 oil and gas lands, mine sites, and wind farms;

3 (C) the use of hemp seed oil in the production of
4 fuels; and

5 (D) an assessment of the production costs,
6 environmental issues, and costs and benefits involved with the use
7 of industrial hemp for energy; and

8 (2) promote awareness of the financial incentives that
9 may be available to agribusiness and manufacturing companies that
10 manufacture industrial hemp into hemp-derived products in order to
11 diversify the agricultural economy of this state, attract new
12 businesses to this state, create new job opportunities for
13 residents of this state, and create a commercial market for
14 industrial hemp.

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

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

21 Sec. 112.004. LEGISLATIVE INTENT REGARDING COMPLIANCE
22 RESPONSIBILITIES. It is the intent of the legislature that:

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

27 (2) manufacturers of hemp-derived products for human

1 consumption be responsible for meeting the THC compliance threshold
2 and complying with applicable food manufacturing laws;

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

6 (4) wholesalers, retailers, and consumers of
7 hemp-derived products not be responsible for unknowingly buying or
8 selling products that do not meet the THC compliance threshold,
9 unless the person intentionally or knowingly adulterates the
10 product.

11 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

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

14 (1) license application and renewal procedures;

15 (2) requirements for license applicants and license
16 holders to provide global positioning system coordinates for each
17 location where the person grows or cultivates, or intends to grow or
18 cultivate, industrial hemp;

19 (3) plant inspection requirements;

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

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

24 (6) provisions governing acquisition of certified
25 seed, cultivars, and clones by license holders and institutions of
26 higher education.

27 (b) Rules adopted under this chapter must be comparable to

1 similar rules governing the production of other crops.

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

6 (b) Fees collected under this chapter may be appropriated
7 only to the department for the purpose of administering this
8 chapter.

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

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

16 SUBCHAPTER C. INDUSTRIAL HEMP PRODUCER'S LICENSE

17 Sec. 112.101. LICENSE REQUIRED. A person may not grow or
18 cultivate industrial hemp in this state unless the person is a
19 license holder.

20 Sec. 112.102. ISSUANCE OF LICENSE. (a) An applicant for a
21 license must apply to the department and pay the required
22 application fee.

23 (b) The application must:

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

25 (2) include the global positioning system coordinates
26 of each location where the applicant will grow or cultivate
27 industrial hemp; and

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

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

7 (d) The department shall send a copy of each license issued
8 under this chapter to the sheriff for each county where the license
9 holder will grow or cultivate industrial hemp, including the global
10 positioning system coordinates of each location where the license
11 holder will grow or cultivate industrial hemp.

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

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

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

20 Sec. 112.151. SEED, CULTIVAR, AND CLONE CERTIFICATION. (a)
21 The department or the State Seed and Plant Board may certify under
22 Chapter 61 or 62 industrial hemp seed and industrial hemp plants,
23 cultivars, and clones.

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

26 Sec. 112.152. ACQUISITION OF SEEDS AND PLANTS. (a) A
27 license holder, the department, or an institution of higher

1 education may transport and use industrial hemp plants, cultivars,
2 and clones from states that allow the cultivation of industrial
3 hemp in compliance with federal law.

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

7 Sec. 112.153. INDUSTRIAL HEMP EXCEEDING THC COMPLIANCE
8 THRESHOLD. (a) The department shall suspend the certification of
9 certified industrial hemp seed, cultivars, or clones if the
10 collective yield and average samplings from seed, cultivar, or
11 clone inspections exceed the THC compliance threshold.

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

16 SUBCHAPTER E. EXCEPTIONS FROM MARIHUANA LAWS FOR INDUSTRIAL HEMP

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

20 (1) industrial hemp grown or cultivated by the
21 department, an institution of higher education, or a license
22 holder; or

23 (2) a hemp-derived product that meets the THC
24 compliance threshold.

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

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

3 (2) manufactures, delivers, or possesses equipment
4 used for the manufacture or processing of a hemp-derived product
5 for a compliant use;

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

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

11 (A) grows, cultivates, manufactures, delivers,
12 or possesses industrial hemp;

13 (B) manufactures, delivers, or possesses
14 equipment used for the cultivation or processing of industrial
15 hemp; or

16 (C) without intent, grows or cultivates a plant
17 from a department-approved certified seed, cultivar, or clone that
18 on inspection is found to exceed the THC compliance threshold if the
19 person destroys the plant in accordance with department rules as
20 soon as practicable after learning the plant exceeds the THC
21 compliance threshold.

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

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

27 (26) "Marihuana" means the plant Cannabis sativa L.,

1 whether growing or not, the seeds of that plant, and every compound,
2 manufacture, salt, derivative, mixture, or preparation of that
3 plant or its seeds. The term does not include:

4 (A) the resin extracted from a part of the plant
5 or a compound, manufacture, salt, derivative, mixture, or
6 preparation of the resin;

7 (B) the mature stalks of the plant or fiber
8 produced from the stalks;

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

10 (D) a compound, manufacture, salt, derivative,
11 mixture, or preparation of the mature stalks, fiber, oil, or cake;
12 [~~or~~]

13 (E) the sterilized seeds of the plant that are
14 incapable of beginning germination; or

15 (F) an item described by Section 112.201(a),
16 Agriculture Code.

17 SECTION 5. Not later than January 1, 2020, the Department of
18 Agriculture shall adopt rules necessary to implement Chapter 112,
19 Agriculture Code, as added by this Act.

20 SECTION 6. This Act takes effect September 1, 2019.