

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

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H.B. No. 1325

A BILL TO BE ENTITLED

AN ACT

relating to the production and regulation of hemp and products made  
from hemp; requiring authorization to produce hemp; authorizing  
penalties; authorizing fees.

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

SECTION 1. This Act may be cited as the Hemp Farming Act.

SECTION 2. (a) It is the policy of this state that hemp is a  
viable agricultural crop and an agricultural commodity in this  
state.

(b) It is the purpose of this Act to:

(1) promote cultivating and processing hemp and  
develop new commercial markets for farmers and businesses through  
the sale of hemp products;

(2) promote the expansion of this state's hemp  
industry to the maximum extent permitted by law allowing farmers  
and businesses to cultivate, handle, and process hemp and sell hemp  
products for commercial purposes;

(3) encourage and empower research into hemp  
production and hemp products at institutions of higher education  
and in the private sector; and

(4) move this state and its citizens to the forefront  
of the hemp industry.

SECTION 3. Section 12.020(c), Agriculture Code, is amended  
to read as follows:

(c) The provisions of law subject to this section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
Chapters 13, 14A, 17, 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, <u>122</u> , 125, 132, and 134	not more than \$5,000
Subchapters A, B, and C, Chapter 71	not more than \$5,000
Chapter 14	not more than \$10,000
Chapter 1951, Occupations Code	not more than \$5,000
Chapter 153, Natural Resources Code	not more than \$5,000
Section 91.009	not more than \$5,000.

SECTION 4. Title 5, Agriculture Code, is amended by adding Subtitle F to read as follows:

SUBTITLE F. HEMP

CHAPTER 121. STATE HEMP PRODUCTION PLAN

Sec. 121.001. DEFINITION. In this chapter, "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Sec. 121.002. LEGISLATIVE INTENT. It is the intent of the legislature that this state have primary regulatory authority over the production of hemp in this state.

Sec. 121.003. DEPARTMENT RULES. (a) The department, after consulting with the governor, attorney general, and Department of State Health Services, shall adopt rules consistent with Chapter 122 providing:

1           (1) a practice to maintain relevant information  
2 regarding land on which hemp is produced in this state, including a  
3 legal description of the land, for a period of at least three  
4 calendar years;

5           (2) a procedure for testing, using  
6 post-decarboxylation, high-performance liquid chromatography, or  
7 another similarly reliable method, the delta-9  
8 tetrahydrocannabinol concentration of hemp produced in this state;

9           (3) a procedure for the effective disposal of plants,  
10 whether growing or not, that are produced in violation of 7 U.S.C.  
11 Chapter 38, Subchapter VII, and products derived from those plants;

12           (4) a procedure to comply with the enforcement  
13 procedures described by 7 U.S.C. Section 1639p(e);

14           (5) a procedure for conducting annual inspections of,  
15 at a minimum, a random sample of hemp producers to verify that hemp  
16 is not produced in violation of 7 U.S.C. Chapter 38, Subchapter VII;

17           (6) a procedure for submitting the information  
18 described in 7 U.S.C. Section 1639q(d)(2), as applicable, to the  
19 secretary of the United States Department of Agriculture not later  
20 than the 30th day after the date the information is received; and

21           (7) standards for certifying that this state has the  
22 resources and personnel to carry out the practices and procedures  
23 described by Subdivisions (1) through (6).

24           (b) The department shall adopt rules under Subsection (a)  
25 that will, in substance, meet the requirements for approval as a  
26 state plan under 7 U.S.C. Section 1639p.

27           Sec. 121.004. MEMORANDUM OF UNDERSTANDING WITH DEPARTMENT

1 OF STATE HEALTH SERVICES. The department and the Department of  
2 State Health Services shall enter into a memorandum of  
3 understanding that:

4 (1) recognizes the primary jurisdiction of the  
5 Department of State Health Services over the processing,  
6 manufacturing, packaging, transportation, sale, and use of  
7 consumable hemp products in this state; and

8 (2) requires the department and the Department of  
9 State Health Services to cooperate in the development of the state  
10 hemp production plan required under this chapter.

11 Sec. 121.005. SUBMISSION OF STATE PLAN. (a) The  
12 department, after consulting with the governor, attorney general,  
13 and Department of State Health Services shall submit to the  
14 secretary of the United States Department of Agriculture a state  
15 plan for monitoring and regulating the production of hemp in this  
16 state as provided by 7 U.S.C. Section 1639p.

17 (b) If the state plan submitted by the department is  
18 disapproved by the secretary of the United States Department of  
19 Agriculture, the department, after consulting with the governor,  
20 attorney general, and Department of State Health Services, shall  
21 amend the state plan as needed to obtain approval and submit an  
22 amended plan.

23 (c) The department shall, as necessary, seek technical  
24 assistance from the secretary of the United States Department of  
25 Agriculture in developing the state plan.



CHAPTER 122. PRODUCTION OF HEMP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 122.001. DEFINITIONS. In this chapter:

(1) "Commercial sale" means the sale of a product in the stream of commerce at retail, at wholesale, or on the Internet.

(2) "Consumable hemp product" means a hemp product that is:

(A) marketed or intended to be:

(i) ingested as a food intended for human consumption; or

(ii) applied topically to the body, including a cosmetic or personal care product; or

(B) similar to a product listed under Paragraph (A) and that contains one or more hemp-derived cannabinoids, including cannabidiol.

(3) "Cultivate" means to plant, irrigate, grow, or harvest a plant or crop.

(4) "Federally defined THC level for hemp" means a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent:

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

(B) in a hemp product.

(5) "Handle" means to possess or store a hemp plant:

(A) on premises owned, operated, or controlled by a hemp producer for any period of time; or

(B) in a vehicle for any period of time other than during the actual transport of the plant from a premises owned,

operated, or controlled by a hemp producer to a premises owned,  
operated, or controlled by another hemp producer.

(6) "Hemp" has the meaning assigned by Section  
121.001.

(7) "Hemp producer" means a person authorized by the  
department to cultivate, handle, or process hemp in this state.

(8) "Hemp product" means a finished product that does  
not exceed the federally defined THC level for hemp, that is derived  
from or made by processing a hemp plant or plant part, and that is  
prepared in a form available for commercial sale. The term includes  
cosmetics, personal care products, food intended for human  
consumption, cloth, cordage, fiber, fuel, paint, paper,  
particleboard, plastics, and any product containing one or more  
hemp-derived cannabinoids, including cannabidiol.

(9) "Independent testing laboratory" means a  
laboratory certified by this state and accredited by an  
accreditation body, including the American Association for  
Laboratory Accreditation (A2LA) and Assured Calibration and  
Laboratory Accreditation Select Services (ACLASS), in accordance  
with International Organization for Standardization ISO/IEC 17025  
or a comparable or successor standard.

(10) "Institution of higher education" has the meaning  
assigned by Section 61.003, Education Code.

(11) "Plot" means a contiguous area in a field,  
greenhouse, or indoor growing structure containing the same variety  
or cultivar of hemp throughout the area.

(12) "Process" means to convert hemp into a marketable

1 form.

2 (13) "QR code" means a quick response machine-readable  
3 code that can be read by a camera, consisting of an array of black  
4 and white squares used for storing information or directing or  
5 leading a user to additional information.

6 (14) "Smoking" means burning or igniting a substance  
7 and inhaling the smoke.

8 Sec. 122.002. DEPARTMENT RULES AND PROCEDURES. The  
9 department shall adopt rules and administrative procedures  
10 necessary to implement this chapter.

11 Sec. 122.003. STATE HEMP PROGRAM ACCOUNT. (a) The state  
12 hemp program account is an account in the general revenue fund  
13 administered by the department.

14 (b) The account consists of:

15 (1) appropriations of money to the account by the  
16 legislature;

17 (2) public or private gifts, grants, or donations,  
18 including federal funds, received for the account;

19 (3) fees received under Section 122.053;

20 (4) interest and income earned on the investment of  
21 money in the account;

22 (5) penalties collected under this chapter; and

23 (6) funds from any other source deposited in the  
24 account.

25 (c) The department may accept appropriations and gifts,  
26 grants, or donations from any source to administer and enforce this  
27 chapter. Money received under this subsection shall be deposited

1 in the account.

2 (d) Money in the account may be appropriated only for the  
3 administration and enforcement of this subtitle.

4 Sec. 122.004. INTERSTATE COMMERCE. To the extent of a  
5 conflict between a provision of this chapter and a provision of  
6 federal law involving interstate transportation of hemp, including  
7 a United States Department of Agriculture regulation, federal law  
8 controls and conflicting provisions of this chapter do not apply.

9 SUBCHAPTER B. STATE HEMP PROGRAM

10 Sec. 122.051. APPLICABILITY OF SUBCHAPTER TO HEMP PRODUCTS.  
11 This subchapter does not apply to the possession, transportation,  
12 or sale of hemp products or extracts, including products or  
13 extracts containing one or more hemp-derived cannabinoids,  
14 including cannabidiol.

15 Sec. 122.052. PROGRAM RULES. (a) The department shall  
16 adopt rules to establish a state hemp program that:

17 (1) promotes the cultivating and processing of hemp  
18 and the commercial sale of hemp products; and

19 (2) regulates hemp production in this state.

20 (b) In adopting rules under Subsection (a), the department  
21 shall consult with:

22 (1) relevant public agencies; and

23 (2) private, nonprofit associations in the hemp  
24 industry that promote standards, best practices, and  
25 self-regulation in the production of hemp.

26 (c) Rules adopted under Subsection (a) must:

27 (1) establish requirements by which the department

1 authorizes an individual or business entity to participate in the  
2 state hemp program as a hemp producer;

3 (2) prescribe the manner in which an institution of  
4 higher education may participate in or be affiliated with the  
5 program;

6 (3) prescribe sampling, inspection, certification,  
7 and testing procedures to ensure that hemp plants cultivated,  
8 handled, or processed in this state, and hemp products processed in  
9 this state, do not exceed the federally defined THC level for hemp;

10 (4) provide due process consistent with Chapter 2001,  
11 Government Code, including an appeals process, to protect hemp  
12 producers from the consequences of imperfect test results; and

13 (5) prescribe enforcement procedures that are  
14 consistent with 7 U.S.C. Section 1639p(e).

15 Sec. 122.053. FEES. (a) The department by rule shall set  
16 and collect fees in amounts that are reasonable and necessary to  
17 cover the costs of administering and enforcing the state hemp  
18 program.

19 (b) Fees prescribed by the department under this section are  
20 not refundable.

21 (c) Fees collected under this section shall be deposited in  
22 the state hemp program account under Section 122.003.

23 Sec. 122.054. DEPARTMENT AUTHORIZATION REQUIRED. (a)  
24 Except as provided by this chapter, a person or the person's agent  
25 may not cultivate, handle, or process hemp in this state or  
26 transport hemp outside of this state unless the person is  
27 authorized by the department under this section to participate in

1 the state hemp program as a hemp producer.

2 (b) A person seeking to participate in the state hemp  
3 program as a hemp producer must apply to the department on a form  
4 and in the manner prescribed by the department. The application  
5 must be accompanied by:

6 (1) a legal description of each location where the  
7 person intends to cultivate or process hemp and the global  
8 positioning system coordinates for the perimeter of each location;

9 (2) written consent from the applicant or the property  
10 owner if the applicant is not the property owner allowing the  
11 department, the Department of Public Safety, and any other state or  
12 local law enforcement agency to enter onto all premises where hemp  
13 is cultivated, processed, handled, or stored to conduct a physical  
14 inspection or to ensure compliance with this chapter and rules  
15 adopted under this chapter;

16 (3) any fees required by the department to be  
17 submitted with the application; and

18 (4) any other information required by department rule.

19 (c) If the department determines that a person who submits  
20 an application under this section meets the state hemp program  
21 participation requirements prescribed by department rule, the  
22 department shall authorize the person to participate in the program  
23 as a hemp producer in the manner provided by department rule.

24 Sec. 122.055. LIMITATION ON PROGRAM PARTICIPATION. (a) A  
25 person who is or has been convicted of a felony relating to a  
26 controlled substance under state or federal law may not participate  
27 in the state hemp program established under this subchapter or

1 produce hemp in this state under any other law for a period of at  
2 least 10 years after the date of the person's conviction.

3 (b) A person who materially falsifies any information  
4 contained in an application submitted to the department under  
5 Section 122.054 may not participate in the state hemp program.

6 Sec. 122.056. ENFORCEMENT. (a) If the department  
7 determines that a hemp producer has negligently violated this  
8 chapter or a rule adopted under this chapter, the department shall  
9 enforce the violation in the manner provided by 7 U.S.C. Section  
10 1639p(e). A hemp producer is not subject to a civil or criminal  
11 penalty under this subsection.

12 (b) If the department determines or suspects that a hemp  
13 producer has violated this chapter or a rule adopted under this  
14 chapter with a culpable mental state greater than negligence,  
15 Subsection (a) does not apply and the department shall report the  
16 hemp producer immediately to:

17 (1) the United States attorney general; and

18 (2) the attorney general of this state, who may:

19 (A) on behalf of the department, investigate the  
20 violation and institute proceedings for injunctive or other  
21 appropriate relief; or

22 (B) report the matter to an appropriate law  
23 enforcement agency.

24 Sec. 122.057. SEED CERTIFICATION PROGRAM. (a) The  
25 department shall establish a program to identify and certify seeds  
26 confirmed to produce hemp. The department may authorize the  
27 importation of hemp seed in accordance with state and federal law.

1        (b) The department may not certify a variety of hemp seed if  
2 the seed is tested and confirmed to produce a plant that exceeds the  
3 federally defined THC level for hemp. For purposes of this  
4 subsection, the department may partner with a private entity or an  
5 institution of higher education to test seed for the purpose of  
6 certification under this section.

7        (c) The department shall maintain and make available to hemp  
8 producers a list of hemp seeds certified by the department under  
9 this section.

10       Sec. 122.058. USE OR DISPOSAL OF HARVESTED PLANTS. (a) If  
11 the results of a test under Subchapter C performed on a sample show  
12 the sample does not exceed the federally defined THC level for hemp,  
13 the hemp producer may sell or use the plants represented by the  
14 sample for any purpose allowed by law.

15       (b) If the results of a test under Subchapter C performed on  
16 a sample show the sample exceeds the federally defined THC level for  
17 hemp, the hemp producer shall immediately confer with the  
18 department and in a manner approved by the department:

19           (1) have postharvest testing performed as provided by  
20 Section 122.106 or other retesting provided by department rule;

21           (2) dispose of all hemp plants represented by the  
22 sample; or

23           (3) if the department determines the plants  
24 represented by the sample reached that concentration solely as a  
25 result of negligence or acts beyond the control of the hemp  
26 producer:

27           (A) trim, extract, or separate the plants until



1 the remaining plants or plant parts do not exceed the federally  
2 defined THC level for hemp and dispose of the noncompliant plants or  
3 plant parts in a manner approved by the department;

4 (B) transfer the plants to a person authorized by  
5 the department to process into a product that does not exceed the  
6 federally defined THC level for hemp and dispose of any remaining  
7 parts of the plants in a manner approved by the department; or

8 (C) take any other corrective action consistent  
9 with federal regulations adopted under 7 U.S.C. Chapter 38,  
10 Subchapter VII.

11 SUBCHAPTER C. TESTING

12 Sec. 122.101. TESTING REQUIRED. (a) The department by rule  
13 shall establish a program for the random testing of hemp plants to  
14 determine the delta-9 tetrahydrocannabinol concentration of a  
15 representative sample of hemp plants from the plot where the plants  
16 are grown.

17 (b) Testing under this subchapter must be conducted using  
18 post-decarboxylation, high-performance liquid chromatography, or  
19 another similarly reliable method prescribed by department rule.

20 Sec. 122.102. PREHARVEST TESTING REQUIRED. A hemp producer  
21 may not harvest a hemp plant unless the delta-9  
22 tetrahydrocannabinol concentration of a representative sample of  
23 hemp plants from the plot where the plant is grown is collected and  
24 tested using post-decarboxylation, high-performance liquid  
25 chromatography, or another similarly reliable method in the manner  
26 required by this subchapter.

27 Sec. 122.103. REPRESENTATIVE SAMPLE. (a) For purposes of

1 Section 122.102, a representative sample of hemp plants from a plot  
2 consists of cuttings taken from at least five plants throughout the  
3 plot.

4 (b) A laboratory performing testing under this subchapter  
5 shall homogenize all the cuttings in the sample and test the delta-9  
6 tetrahydrocannabinol concentration of a random sample of the  
7 homogenized material.

8 Sec. 122.104. SAMPLE COLLECTION. (a) A hemp producer shall  
9 notify the department at least 20 days before the date the hemp  
10 producer expects to harvest hemp plants in the manner prescribed by  
11 department rule.

12 (b) A sample must be collected by the department or another  
13 entity described by Section 122.105(a).

14 (c) The department by rule may prescribe reasonable  
15 procedures for a person who collects a sample to submit the sample  
16 to the testing laboratory selected by the hemp producer.

17 Sec. 122.105. TESTING LABORATORY. (a) Subject to  
18 Subsection (b), testing required by this subchapter must be  
19 performed by:

- 20 (1) the department;  
21 (2) an institution of higher education; or  
22 (3) an independent testing laboratory.

23 (b) To perform the testing required by this subchapter, a  
24 laboratory described by Subsection (a) must be accredited by an  
25 accreditation body in accordance with International Organization  
26 for Standardization ISO/IEC 17025 or a successor standard.

27 (c) A hemp producer shall select a laboratory described by

1 Subsection (a) to perform preharvest or postharvest testing of a  
2 sample taken from the hemp producer's plot. A hemp producer shall  
3 pay the costs of sample collection and testing in the amount  
4 prescribed by the laboratory selected by the hemp producer.

5 (d) The department shall recognize and accept the results of  
6 a test performed by an institution of higher education or an  
7 independent testing laboratory described by Subsection (a). The  
8 department shall require that a copy of the test results be sent by  
9 the institution of higher education or independent testing  
10 laboratory directly to the department and the hemp producer.

11 (e) The department shall notify the hemp producer of the  
12 results of the test not later than the 14th day after the date the  
13 sample was collected under Section 122.104 or the date the  
14 department receives test results under Subsection (d).

15 Sec. 122.106. POSTHARVEST TESTING. (a) The department by  
16 rule shall allow a hemp producer to have postharvest testing  
17 performed on a representative sample of plants from a plot if the  
18 results of a preharvest test exceed the federally defined THC level  
19 for hemp.

20 (b) A hemp producer requesting postharvest testing shall  
21 pay the costs of the testing before a testing laboratory selected by  
22 the hemp producer under Section 122.105 performs the test.

23 (c) If a hemp producer fails to request postharvest testing  
24 or fails to pay the postharvest testing fee not later than the 15th  
25 day after the date the hemp producer is notified of the results of  
26 the preharvest test, the results of the preharvest test are final.

27 (d) A hemp producer shall retain control over harvested

1 plants until the hemp producer receives:

2 (1) written notice of preharvest or postharvest  
3 testing results indicating the plants do not exceed the federally  
4 defined THC level for hemp; or

5 (2) a shipping certificate or cargo manifest by the  
6 department under Section 122.154.

7 Sec. 122.107. SHIPPING DOCUMENTATION FOR TEST SAMPLES. The  
8 department shall issue documentation to an entity authorized to  
9 collect samples of plants for testing that authorizes the  
10 transportation of those samples from the place of collection to a  
11 testing laboratory.

12 SUBCHAPTER D. HEMP PRODUCTS

13 Sec. 122.151. PROCESSING OR MANUFACTURING HEMP PRODUCTS.  
14 (a) Except as provided by Subsection (b), a state agency may not  
15 prohibit a person who processes or manufactures a product regulated  
16 by the agency from applying for or obtaining a permit or other  
17 authorization to process or manufacture the product solely on the  
18 basis that the person intends to process or manufacture the product  
19 with hemp.

20 (b) A state agency may not authorize a person to process or  
21 manufacture a hemp product for smoking.

22 Sec. 122.152. HEMP-DERIVED ADDITIVES. Notwithstanding any  
23 other law, derivatives of hemp, including hemp-derived  
24 cannabidiol, may be added to cosmetics, personal care products, and  
25 products intended for human consumption, and the addition is not  
26 considered an adulteration of the products.

27 Sec. 122.153. PACKAGING AND LABELING REQUIREMENTS. (a)

Before a consumable hemp product that contains or is marketed as containing more than trace amounts of cannabinoids may be distributed or sold, the product must be packaged and labeled with the following information:

- (1) batch identification number;
- (2) batch size;
- (3) batch date;
- (4) batch number;
- (5) product name;
- (6) total quantity produced;
- (7) an Internet link for downloading a certificate of analysis for the product;
- (8) the name of the product's manufacturer; and
- (9) a certification that the product does not exceed the federally defined THC level for hemp.

(b) The label required by Subsection (a) may be in the form of:

- (1) a uniform resource locator (URL) for the manufacturer's Internet website that provides the information required by that subsection; or
- (2) a QR code or other bar code that may be scanned and that leads to the information required by that subsection.

Sec. 122.154. SHIPPING CERTIFICATE OR MANIFEST. (a) The department shall develop a shipping certificate or cargo manifest that the department may issue to a hemp producer in connection with the transportation of hemp or hemp products.

(b) A certificate or manifest under Subsection (a) must

1 include a unique identifying number for the shipment and the  
2 department's contact information to allow law enforcement during a  
3 roadside inspection of a motor vehicle transporting the shipment to  
4 verify that the shipment consists of hemp or hemp products produced  
5 in compliance with this chapter.

6 Sec. 122.155. POSSESSION, TRANSPORTATION, AND SALE OF HEMP  
7 PRODUCTS. (a) Notwithstanding any other law, a person may possess,  
8 transport, sell, and purchase legally produced hemp products in  
9 this state.

10 (b) The department by rule must provide to a retailer of  
11 hemp products fair notice of a potential violation concerning hemp  
12 products sold by the retailer and an opportunity to cure a violation  
13 made unintentionally or negligently.

14 Sec. 122.156. RULES RELATED TO SALE OF HEMP PRODUCTS. The  
15 department, in consultation with the Department of State Health  
16 Services, shall adopt rules to regulate the sale of hemp products  
17 that reflect the following principles:

18 (1) hemp-derived cannabinoids, including cannabidiol,  
19 are not considered controlled substances or adulterants;

20 (2) products containing one or more hemp-derived  
21 cannabinoids, such as cannabidiol, intended for ingestion are to be  
22 considered foods, not controlled substances or adulterated  
23 products;

24 (3) hemp products must be packaged and labeled in the  
25 manner provided by Section 122.153; and

26 (4) the processing or manufacturing of a hemp product  
27 for smoking is prohibited.

Sec. 122.157. RETAIL SALE OF OUT-OF-STATE HEMP PRODUCTS.

(a) Retail sales of hemp products manufactured or processed outside of this state may be made in this state when the products and the hemp used in the products were processed and cultivated legally in another state or jurisdiction that has the same or substantially similar requirements for processing hemp products or cultivating hemp as provided by this chapter.

(b) The department shall maintain a list of states or other jurisdictions described by Subsection (a).

Sec. 122.158. TRANSPORTATION AND EXPORTATION OF HEMP PRODUCTS OUT OF STATE. Hemp products may be legally transported across state lines and exported to foreign jurisdictions in a manner that is consistent with federal law and the laws of respective foreign jurisdictions.

SUBCHAPTER E. ENFORCEMENT; PENALTIES

Sec. 122.201. PENALTY SCHEDULE. (a) The department by rule shall adopt a schedule of sanctions and penalties for violations of this chapter and rules adopted under this chapter that does not conflict with 7 U.S.C. Section 1639p(e).

(b) A penalty collected under this chapter must be deposited in the state hemp program account under Section 122.003.

Sec. 122.202. ADMINISTRATIVE PENALTY. The department may impose an administrative penalty or other administrative sanction for a violation of this chapter or a rule or order adopted under this chapter, including a penalty or sanction under Section 12.020 or 12.0201.

SECTION 5. Sections 481.002(5) and (26), Health and Safety

1 Code, are amended to read as follows:

2 (5) "Controlled substance" means a substance,  
3 including a drug, an adulterant, and a dilutant, listed in  
4 Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The  
5 term includes the aggregate weight of any mixture, solution, or  
6 other substance containing a controlled substance. The term does  
7 not include hemp, as defined by Section 121.001, Agriculture Code,  
8 or the tetrahydrocannabinols in hemp.

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

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

16 (B) the mature stalks of the plant or fiber  
17 produced from the stalks;

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

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

22 (E) the sterilized seeds of the plant that are  
23 incapable of beginning germination; or

24 (F) hemp, as that term is defined by Section  
25 121.001, Agriculture Code.

26 SECTION 6. (a) Not later than the 90th day after the  
27 effective date of this Act, the Department of Agriculture shall



1 adopt rules under Section 121.003, Agriculture Code, as added by  
2 this Act, and submit for approval a state plan to the secretary of  
3 the United States Department of Agriculture as provided by Section  
4 121.005, Agriculture Code, as added by this Act.

5 (b) The Department of Agriculture shall submit amended  
6 state plans as provided by Section 121.005(b), Agriculture Code, as  
7 added by this Act, as necessary until the plan is approved.

8 SECTION 7. (a) Not later than January 1, 2020, the  
9 Department of Agriculture shall adopt rules and procedures  
10 necessary to implement Chapter 122, Agriculture Code, as added by  
11 this Act.

12 (b) Not later than the 30th day after the date on which rules  
13 and procedures are adopted under Subsection (a) of this section,  
14 the Department of Agriculture shall begin authorizing  
15 participation in the state hemp program established under Chapter  
16 122, Agriculture Code, as added by this Act.

17 SECTION 8. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2019.

ADOPTED

MAY 15 2019

*Larry Green*  
Secretary of the Senate

By: *Charles Perry*

Substitute the following for H.B. No. 1325:

By: *CLR*

H.B. No. 1325

C.S. H.B. No. 1325

A BILL TO BE ENTITLED

AN ACT

relating to the production and regulation of hemp; requiring occupational licenses; authorizing fees; creating criminal offenses; providing civil and administrative penalties.

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

SECTION 1. Section 12.020(c), Agriculture Code, is amended to read as follows:

(c) The provisions of law subject to this section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
Chapters 13, 14A, 17, 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, <u>122</u> , 125, 132, and 134	not more than \$5,000
Subchapters A, B, and C, Chapter 71	not more than \$5,000
Chapter 14	not more than \$10,000
Chapter 1951, Occupations Code	not more than \$5,000
Chapter 153, Natural Resources Code	not more than \$5,000
Section 91.009	not more than \$5,000.

SECTION 2. Title 5, Agriculture Code, is amended by adding Subtitle F to read as follows:

SUBTITLE F. HEMP

CHAPTER 121. STATE HEMP PRODUCTION PLAN

Sec. 121.001. DEFINITION. In this chapter, "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids,

1 isomers, acids, salts, and salts of isomers, whether growing or  
2 not, with a delta-9 tetrahydrocannabinol concentration of not more  
3 than 0.3 percent on a dry weight basis.

4 Sec. 121.002. LEGISLATIVE INTENT. It is the intent of the  
5 legislature that this state have primary regulatory authority over  
6 the production of hemp in this state.

7 Sec. 121.003. STATE PLAN. (a) The department, after  
8 consulting with the governor and attorney general, shall develop a  
9 state plan to monitor and regulate the production of hemp in this  
10 state. The plan must comply with:

11 (1) 7 U.S.C. Section 1639p;

12 (2) Chapter 122; and

13 (3) Chapter 443, Health and Safety Code.

14 (b) The department shall submit the plan developed under  
15 Subsection (a) to the secretary of the United States Department of  
16 Agriculture as this state's plan for monitoring and regulating the  
17 production of hemp as provided by 7 U.S.C. Section 1639p.

18 (c) If a plan submitted under Subsection (b) is disapproved  
19 by the secretary of the United States Department of Agriculture,  
20 the department, after consulting with the governor and attorney  
21 general, shall amend the plan as needed to obtain approval and  
22 submit an amended plan.

23 (d) The department shall, as necessary, seek technical  
24 assistance from the secretary of the United States Department of  
25 Agriculture and other state agencies in developing the plan under  
26 this section.

27 Sec. 121.004. RULES. The department may adopt any rules

1 necessary to implement and administer the state plan under Section  
2 121.003.

3 CHAPTER 122. CULTIVATION OF HEMP

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 122.001. DEFINITIONS. In this chapter:

6 (1) "Cultivate" means to plant, irrigate, cultivate,  
7 or harvest a hemp plant.

8 (2) "Governing person" has the meaning assigned by  
9 Section 1.002, Business Organizations Code.

10 (3) "Handle" means to possess or store a hemp plant:

11 (A) on premises owned, operated, or controlled by  
12 a license holder for any period of time; or

13 (B) in a vehicle for any period of time other than  
14 during the actual transport of the plant from a premises owned,  
15 operated, or controlled by a license holder to:

16 (i) a premises owned, operated, or  
17 controlled by another license holder; or

18 (ii) a person licensed under Chapter 443,  
19 Health and Safety Code.

20 (4) "Hemp" has the meaning assigned by Section  
21 121.001.

22 (5) "Institution of higher education" has the meaning  
23 assigned by Section 61.003, Education Code.

24 (6) "License" means a hemp grower's license issued  
25 under Subchapter C.

26 (7) "License holder" means an individual or business  
27 entity holding a license.

1           (8) "Nonconsumable hemp product" means a product that  
2 contains hemp, other than a consumable hemp product as defined by  
3 Section 443.001, Health and Safety Code. The term includes cloth,  
4 cordage, fiber, fuel, paint, paper, particleboard, and plastics  
5 derived from hemp.

6           (9) "Plot" means a contiguous area in a field,  
7 greenhouse, or indoor growing structure containing the same variety  
8 or cultivar of hemp throughout the area.

9           Sec. 122.002. LOCAL REGULATION PROHIBITED. A municipality,  
10 county, or other political subdivision of this state may not enact,  
11 adopt, or enforce a rule, ordinance, order, resolution, or other  
12 regulation that prohibits the cultivation, handling,  
13 transportation, or sale of hemp as authorized by this chapter.

14           Sec. 122.003. STATE HEMP PRODUCTION ACCOUNT. (a) The state  
15 hemp production account is an account in the general revenue fund  
16 administered by the department.

17           (b) The account consists of:

18               (1) appropriations of money to the account by the  
19 legislature;

20               (2) public or private gifts, grants, or donations,  
21 including federal funds, received for the account;

22               (3) fees received under Section 122.052;

23               (4) interest and income earned on the investment of  
24 money in the account;

25               (5) penalties collected under this chapter other than  
26 a civil penalty collected under Subchapter H; and

27               (6) funds from any other source deposited in the

1 account.

2 (c) The department may accept appropriations and gifts,  
3 grants, or donations from any source to administer and enforce this  
4 subtitle. Money received under this subsection shall be deposited  
5 in the account.

6 (d) Money in the account may be appropriated only to the  
7 department for the administration and enforcement of this subtitle.

8 Sec. 122.004. SEVERABILITY. (a) A provision of this  
9 chapter or its application to any person or circumstance is invalid  
10 if the secretary of the United States Department of Agriculture  
11 determines that the provision or application conflicts with 7  
12 U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the  
13 state plan submitted under Chapter 121.

14 (b) The invalidity of a provision or application under  
15 Subsection (a) does not affect the other provisions or applications  
16 of this chapter that can be given effect without the invalid  
17 provision or application, and to this end the provisions of this  
18 chapter are declared to be severable.

19 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

20 Sec. 122.051. DEPARTMENT RULES AND PROCEDURES. (a) The  
21 department shall adopt rules and procedures necessary to implement,  
22 administer, and enforce this chapter.

23 (b) Rules adopted under Subsection (a) must:

24 (1) prescribe sampling, inspection, and testing  
25 procedures, including standards and procedures for the calibration  
26 of laboratory equipment, to ensure that the delta-9  
27 tetrahydrocannabinol concentration of hemp plants cultivated in

1 this state is not more than 0.3 percent on a dry weight basis; and

2 (2) provide due process consistent with Chapter 2001,  
3 Government Code, including an appeals process, to protect license  
4 holders from the consequences of imperfect test results.

5 Sec. 122.052. FEES. (a) The department shall set and  
6 collect:

7 (1) an application fee for an initial license in an  
8 amount not to exceed \$100;

9 (2) a license renewal fee in an amount not to exceed  
10 \$100;

11 (3) a participation fee for each location described by  
12 Section 122.103(a)(1) and each location added after the application  
13 is submitted in an amount not to exceed \$100;

14 (4) a site modification fee for each change to a  
15 location described by Section 122.103(a)(1) in an amount not to  
16 exceed \$500; and

17 (5) a collection and testing fee for each preharvest  
18 test or postharvest test if performed by the department in an amount  
19 not to exceed \$300.

20 (b) A fee set by the department under this section may not  
21 exceed the amount necessary to administer this chapter. The  
22 comptroller may authorize the department to collect a fee described  
23 by Subsection (a) in an amount greater than the maximum amount  
24 provided by that subsection if necessary to cover the department's  
25 costs of administering this chapter.

26 (c) The department may not set or collect a fee associated  
27 with the cultivation of hemp that is not listed in Subsection (a),

1 other than:

2 (1) a fee for the organic certification of hemp under  
3 Chapter 18 or for participation in another optional marketing  
4 program; or

5 (2) a fee for the certification of seed or plants under  
6 Chapter 62.

7 (d) Fees collected by the department under this chapter are  
8 not refundable and may be appropriated only to the department for  
9 the purpose of administering this chapter.

10 Sec. 122.053. INSPECTIONS. (a) The department may  
11 randomly inspect land where hemp is grown to determine whether hemp  
12 is being cultivated in compliance with this chapter.

13 (b) The department may enter onto land described by Section  
14 122.103(a)(1), conduct inspections, and collect and test plant  
15 samples.

16 (c) Using participation fees set and collected under  
17 Section 122.052(a)(3), the department shall pay the cost of  
18 inspections under this section.

19 (d) The Department of Public Safety may inspect, collect  
20 samples from, or test plants from any portion of a plot to ensure  
21 compliance with this chapter. A license holder shall allow the  
22 Department of Public Safety access to the plot and the property on  
23 which the plot is located for purposes of this subsection.

24 (e) If, after conducting an inspection or performing  
25 testing under this section, the department or the Department of  
26 Public Safety determines any portion of a plot is not compliant with  
27 this chapter, the department or the Department of Public Safety may



1 report the license holder to the other department or to the attorney  
2 general.

3 Sec. 122.054. SAMPLE COLLECTION AND TESTING. The  
4 department may collect samples and perform testing or contract with  
5 a laboratory for the performance of that collection and testing on  
6 behalf of the department. A test performed by a laboratory on behalf  
7 of the department is considered to be performed by the department  
8 for purposes of this chapter.

9 Sec. 122.055. SHIPPING CERTIFICATE OR CARGO MANIFEST. (a)  
10 The department shall develop a shipping certificate or cargo  
11 manifest which the department shall issue to a license holder in  
12 connection with the transportation of a shipment of hemp plant  
13 material originating in this state, other than sterilized seeds  
14 that are incapable of beginning germination.

15 (b) A certificate or manifest developed under Subsection  
16 (a) must include a unique identifying number for the shipment and  
17 the department's contact information to allow law enforcement  
18 during a roadside inspection of a motor vehicle transporting the  
19 shipment to verify that the shipment consists of hemp cultivated in  
20 compliance with this chapter.

21 (c) A person commits an offense if the person, with intent  
22 to deceive law enforcement, forges, falsifies, or alters a shipping  
23 certificate or cargo manifest issued under this section. An  
24 offense under this subsection is a third degree felony.

#### 25 SUBCHAPTER C. HEMP GROWER'S LICENSE

26 Sec. 122.101. LICENSE REQUIRED; EXCEPTIONS. (a) Except as  
27 provided by Subsection (b), a person or the person's agent may not

1 cultivate or handle hemp in this state or transport hemp outside of  
2 this state unless the person holds a license under this subchapter.

3 (b) A person is not required to hold a license under this  
4 subchapter to manufacture a consumable hemp product in accordance  
5 with Subtitle A, Title 6, Health and Safety Code.

6 Sec. 122.102. LICENSE INELIGIBILITY. (a) An individual  
7 who is or has been convicted of a felony relating to a controlled  
8 substance under federal law or the law of any state may not, before  
9 the 10th anniversary of the date of the conviction:

10 (1) hold a license under this subchapter; or

11 (2) be a governing person of a business entity that  
12 holds a license under this subchapter.

13 (b) The department may not issue a license under this  
14 subchapter to a person who materially falsifies any information  
15 contained in an application submitted to the department under  
16 Section 122.103.

17 Sec. 122.103. APPLICATION; ISSUANCE. (a) A person may  
18 apply for a license under this subchapter by submitting an  
19 application to the department on a form and in the manner prescribed  
20 by the department. The application must be accompanied by:

21 (1) a legal description of each location where the  
22 applicant intends to cultivate or handle hemp and the global  
23 positioning system coordinates for the perimeter of each location;

24 (2) written consent from the applicant or the property  
25 owner if the applicant is not the property owner allowing the  
26 department, the Department of Public Safety, and any other state or  
27 local law enforcement agency to enter onto all premises where hemp

1 is cultivated or handled to conduct a physical inspection or to  
2 ensure compliance with this chapter and rules adopted under this  
3 chapter;

4           (3) the application fee; and

5           (4) any other information required by department rule.

6       (b) Except as provided by Subsection (c), the department  
7 shall issue a license to a qualified applicant not later than the  
8 60th day after the date the department receives the completed  
9 application and the required application fees.

10       (c) A qualified applicant who along with the application  
11 submits proof to the department that the applicant holds a license  
12 under Chapter 487, Health and Safety Code, is not required to pay an  
13 application fee, and the department shall issue the license to the  
14 applicant within the time prescribed by Subsection (b).

15       Sec. 122.104. TERM; RENEWAL. (a) A license is valid for  
16 one year and may be renewed as provided by this section.

17       (b) The department shall renew a license if the license  
18 holder:

19           (1) is not ineligible to hold the license under  
20 Section 122.102;

21           (2) submits to the department the license renewal fee;  
22 and

23           (3) does not owe any outstanding fee described by  
24 Section 122.052.

25       Sec. 122.105. REVOCATION. The department shall revoke a  
26 license if the license holder is convicted of a felony relating to a  
27 controlled substance under federal law or the law of any state.

1                                    SUBCHAPTER D. TESTING

2                    Sec. 122.151. TESTING LABORATORIES. (a) Subject to  
3 Subsection (b), testing under this subchapter or Section 122.053  
4 must be performed by:

- 5                    (1) the department;  
6                    (2) an institution of higher education; or  
7                    (3) an independent testing laboratory registered  
8 under Section 122.152.

9                    (b) To perform testing under this chapter, a laboratory  
10 described by Subsection (a) must be accredited by an independent  
11 accreditation body in accordance with International Organization  
12 for Standardization ISO/IEC 17025 or a comparable or successor  
13 standard.

14                    (c) A license holder shall select a laboratory described by  
15 Subsection (a) to perform preharvest or postharvest testing of a  
16 sample taken from the license holder's plot. A license holder may  
17 not select an independent testing laboratory under Subsection  
18 (a)(3) unless the license holder has:

- 19                    (1) no ownership interest in the laboratory; or  
20                    (2) less than a 10 percent ownership interest in the  
21 laboratory if the laboratory is a publicly traded company.

22                    (d) A license holder must pay the costs of preharvest or  
23 postharvest sample collection and testing in the amount prescribed  
24 by the laboratory selected by the license holder.

25                    (e) The department shall recognize and accept the results of  
26 a test performed by an institution of higher education or an  
27 independent testing laboratory described by Subsection (a). The

1 department shall require that a copy of the test results be sent by  
2 the institution of higher education or independent testing  
3 laboratory directly to the department and the license holder.

4 (f) The department shall notify the license holder of the  
5 results of the test not later than the 14th day after the date the  
6 sample was collected under Section 122.154 or the date the  
7 department receives test results under Subsection (e).

8 Sec. 122.152. REGISTRATION OF INDEPENDENT TESTING  
9 LABORATORIES. (a) The department shall register independent  
10 testing laboratories authorized to conduct testing under Section  
11 122.151(a)(3).

12 (b) A laboratory is eligible for registration if the  
13 laboratory submits to the department proof of accreditation by an  
14 independent accreditation body in accordance with International  
15 Organization for Standardization ISO/IEC 17025 or a comparable or  
16 successor standard and any required fee.

17 (c) The department shall annually prepare a registry of all  
18 independent testing laboratories registered by the department and  
19 make the registry available to license holders.

20 (d) The department may charge a registration fee to recover  
21 the costs of administering this section.

22 Sec. 122.153: PREHARVEST TESTING REQUIRED. (a) A license  
23 holder may not harvest a hemp plant or plant intended or believed to  
24 be hemp unless a representative sample of plants from the plot where  
25 the plant is grown is collected before harvest and subsequently  
26 tested using post-decarboxylation, high-performance liquid  
27 chromatography, or another similarly reliable method to determine

1 the delta-9 tetrahydrocannabinol concentration of the sample in the  
2 manner required by this subchapter.

3 (b) For purposes of Subsection (a), a representative sample  
4 of plants from a plot consists of cuttings taken from at least five  
5 plants throughout the plot. The department by rule shall prescribe  
6 the minimum distance between plants from which cuttings may be  
7 taken based on the size of the plot.

8 (c) A laboratory performing preharvest testing under this  
9 section shall homogenize all the cuttings in the sample and test the  
10 delta-9 tetrahydrocannabinol concentration of a random sample of  
11 the homogenized material.

12 (d) This section does not prohibit a license holder from  
13 harvesting plants immediately after a preharvest sample is  
14 collected.

15 Sec. 122.154. PREHARVEST SAMPLE COLLECTION. (a) A license  
16 holder shall notify the department at least 20 days before the date  
17 the license holder expects to harvest plants from a plot in the  
18 manner prescribed by department rule.

19 (b) A sample must be collected by the department or another  
20 entity described by Section 122.151(a) for purposes of preharvest  
21 testing under Section 122.153.

22 (c) The department by rule may prescribe reasonable  
23 procedures for submitting a preharvest sample collected under this  
24 section to a testing laboratory selected by the license holder.

25 Sec. 122.155. OPTIONAL POSTHARVEST TESTING. (a) The  
26 department by rule shall allow a license holder to have a single  
27 postharvest test performed on a representative sample of plants

1 from a plot if the results of the preharvest test representing the  
2 plot show a delta-9 tetrahydrocannabinol concentration of more than  
3 0.3 percent on a dry weight basis.

4 (b) The department by rule shall prescribe the requirements  
5 for a representative sample and for sample collection under this  
6 section.

7 (c) If a license holder fails to request postharvest testing  
8 on or before the 15th day after the date the license holder is  
9 notified of the results of the preharvest test, the results of the  
10 preharvest test are final.

11 Sec. 122.156. SHIPPING DOCUMENTATION FOR TEST SAMPLES. The  
12 department shall issue documentation to an entity authorized to  
13 collect samples of plants for testing that authorizes the  
14 transportation of those samples from the place of collection to a  
15 testing laboratory described by Section 122.151(a).

16 Sec. 122.157. FALSE LABORATORY REPORT; CRIMINAL OFFENSE.

17 (a) A person commits an offense if the person, with the intent to  
18 deceive, forges, falsifies, or alters the results of a laboratory  
19 test required or authorized under this chapter.

20 (b) An offense under Subsection (a) is a third degree  
21 felony.

22 SUBCHAPTER E. HARVEST AND USE OR DISPOSAL OF PLANTS

23 Sec. 122.201. HARVEST. (a) A license holder shall harvest  
24 the plants from a plot not later than the 20th day after the date a  
25 preharvest sample is collected under Section 122.154 unless field  
26 conditions delay harvesting or the department authorizes the  
27 license holder to delay harvesting. This subsection does not

1 prohibit the license holder from harvesting the plants immediately  
2 after the preharvest sample is collected.

3 (b) A license holder may not sell or use harvested plants  
4 before the results of a preharvest and, if applicable, postharvest  
5 test performed on a sample representing the plants are received. If  
6 the test results are not received before the plants are harvested,  
7 the license holder shall dry and store the harvested plants until  
8 the results are received.

9 (c) A license holder may not commingle harvested plants  
10 represented by one sample with plants represented by another sample  
11 until the results of the tests are received.

12 Sec. 122.202. USE OR DISPOSAL OF HARVESTED PLANTS. (a) If  
13 the results of a preharvest or postharvest test performed on a  
14 sample show a delta-9 tetrahydrocannabinol concentration of not  
15 more than 0.3 percent on a dry weight basis, the license holder may  
16 sell or use the plants represented by the sample for any purpose  
17 allowed by law.

18 (b) If the results of a preharvest and, if applicable,  
19 postharvest test performed on a sample show a delta-9  
20 tetrahydrocannabinol concentration of more than 0.3 percent on a  
21 dry weight basis:

22 (1) the license holder shall dispose of or destroy all  
23 plants represented by the sample:

24 (A) in the manner prescribed by federal law; or

25 (B) in a manner approved by the department that  
26 does not conflict with federal law; or

27 (2) if the department determines the plants



1 represented by the sample reached that concentration solely as a  
2 result of negligence, the license holder is subject to Section  
3 122.403(c) and may:

4 (A) trim the plants until the delta-9  
5 tetrahydrocannabinol concentration of the plants is not more than  
6 0.3 percent on a dry weight basis and dispose of the noncompliant  
7 parts of the plants in a manner approved by the department;

8 (B) process the plants into fiber with a delta-9  
9 tetrahydrocannabinol concentration of not more than 0.3 percent on  
10 a dry weight basis and dispose of any remaining parts of the plants  
11 in a manner approved by the department; or

12 (C) take any other corrective action consistent  
13 with federal regulations adopted under 7 U.S.C. Chapter 38,  
14 Subchapter VII.

15 SUBCHAPTER F. HEMP SEED

16 Sec. 122.251. APPLICABILITY OF SUBCHAPTER. This subchapter  
17 does not apply to sterilized seeds that are incapable of beginning  
18 germination.

19 Sec. 122.252. CERTIFICATION OR APPROVAL. (a) The  
20 department or an entity authorized to certify seed under Chapter 62  
21 shall identify and certify or approve seed confirmed to produce  
22 hemp.

23 (b) The department or entity may not certify or approve a  
24 variety of hemp seed if the seed is tested and confirmed to produce  
25 a plant that has delta-9 tetrahydrocannabinol concentration of more  
26 than 0.3 percent on a dry weight basis. For purposes of this  
27 subsection, the department may partner with a private entity or an

1 institution of higher education to test seed for the purpose of  
2 certification or approval under this section.

3 (c) The department may authorize the importation of hemp  
4 seed certified in accordance with the law of another state or  
5 jurisdiction that requires as a condition of certification that  
6 hemp be produced in compliance with:

7 (1) that state or jurisdiction's plan approved by the  
8 United States Department of Agriculture under 7 U.S.C. Section  
9 1639p; or

10 (2) a plan established under 7 U.S.C. Section 1639q if  
11 that plan applies in the state or jurisdiction.

12 (d) The department shall maintain and make available to  
13 license holders a list of hemp seeds certified or approved under  
14 this section.

15 Sec. 122.253. PROHIBITED USE OF CERTAIN HEMP SEED. A person  
16 may not sell, offer for sale, distribute, or use hemp seed in this  
17 state unless the seed is certified or approved under Section  
18 122.252.

19 SUBCHAPTER G. NONCONSUMABLE HEMP PRODUCTS

20 Sec. 122.301. MANUFACTURE. (a) Except as provided by  
21 Subsection (b), a state agency may not prohibit a person who  
22 manufactures a product regulated by the agency, other than an  
23 article regulated under Chapter 431, Health and Safety Code, from  
24 applying for or obtaining a permit or other authorization to  
25 manufacture the product solely on the basis that the person intends  
26 to manufacture the product as a nonconsumable hemp product.

27 (b) A state agency may not authorize a person to manufacture

1 a product containing hemp for smoking, as defined by Section  
2 443.001, Health and Safety Code.

3 Sec. 122.302. POSSESSION, TRANSPORTATION, AND SALE. (a)  
4 Notwithstanding any other law, a person may possess, transport,  
5 sell, and purchase legally produced nonconsumable hemp products in  
6 this state.

7 (b) The department by rule must provide to a retailer of  
8 nonconsumable hemp products fair notice of a potential violation  
9 concerning hemp products sold by the retailer and an opportunity to  
10 cure a violation made unintentionally or negligently.

11 Sec. 122.303. RETAIL SALE OF OUT-OF-STATE PRODUCTS. (a)  
12 Retail sales of nonconsumable hemp products manufactured outside of  
13 this state may be made in this state when the hemp used in the  
14 products was cultivated legally in another state or jurisdiction in  
15 compliance with:

16 (1) that state or jurisdiction's plan approved by the  
17 United States Department of Agriculture under 7 U.S.C. Section  
18 1639p; or

19 (2) a plan established under 7 U.S.C. Section 1639q if  
20 that plan applies to the state or jurisdiction.

21 (b) The department shall maintain a list of states or other  
22 jurisdictions in which hemp may be cultivated legally as described  
23 by Subsection (a).

24 Sec. 122.304. TRANSPORTATION AND EXPORTATION OUT OF STATE.  
25 Nonconsumable hemp products may be legally transported across state  
26 lines and exported to foreign jurisdictions in a manner that is  
27 consistent with federal law and the laws of respective foreign

1 jurisdictions.

2 SUBCHAPTER H. TRANSPORTATION REQUIREMENTS

3 Sec. 122.351. DEFINITION. In this subchapter, "peace  
4 officer" has the meaning assigned by Article 2.12, Code of Criminal  
5 Procedure.

6 Sec. 122.352. POLICY. It is the policy of this state to not  
7 interfere with the interstate commerce of hemp or the transshipment  
8 of hemp through this state.

9 Sec. 122.353. INTERSTATE TRANSPORTATION. To the extent of  
10 a conflict between a provision of this chapter and a provision of  
11 federal law involving interstate transportation of hemp, including  
12 a United States Department of Agriculture regulation, federal law  
13 controls and conflicting provisions of this chapter do not apply.

14 Sec. 122.354. DEPARTMENT RULES. The department, in  
15 consultation with the Department of Public Safety, shall adopt  
16 rules regulating the transportation of hemp in this state to ensure  
17 that illegal marihuana is not transported into or through this  
18 state disguised as legal hemp.

19 Sec. 122.355. HEMP TRANSPORTATION ACCOUNT. (a) The hemp  
20 transportation account is a dedicated account in the general  
21 revenue fund administered by the department. The account consists  
22 of:

23 (1) civil penalties collected under this subchapter;

24 and

25 (2) interest and income earned on the investment of  
26 money in the account.

27 (b) Money in the account may be appropriated only to the

1 department for the administration and enforcement of this  
2 subchapter. The department may transfer money appropriated under  
3 this subsection to the Department of Public Safety for the  
4 administration and enforcement of that department's powers and  
5 duties under this subchapter, unless prohibited by other law.

6 Sec. 122.356. DOCUMENTATION AND OTHER SHIPPING  
7 REQUIREMENTS. (a) A person may not transport hemp plant material  
8 in this state unless the hemp:

9 (1) is produced in compliance with:

10 (A) a state or tribal plan approved by the United  
11 States Department of Agriculture under 7 U.S.C. Section 1639p; or

12 (B) a plan established under 7 U.S.C. Section  
13 1639q if the hemp was cultivated in an area where that plan applies;  
14 and

15 (2) is accompanied by:

16 (A) a shipping certificate or cargo manifest  
17 issued under Section 122.055 if the hemp originated in this state;  
18 or

19 (B) documentation containing the name and  
20 address of the place where the hemp was cultivated and a statement  
21 that the hemp was produced in compliance with 7 U.S.C. Chapter 38,  
22 Subchapter VII, if the hemp originated outside this state.

23 (b) A person transporting hemp plant material in this state:

24 (1) may not concurrently transport any cargo that is  
25 not hemp plant material; and

26 (2) shall furnish the documentation required by this  
27 section to the department or any peace officer on request.

1       Sec. 122.357. AGRICULTURAL PESTS AND DISEASES. A person  
2 may not transport in this state hemp that contains an agricultural  
3 pest or disease as provided by department rule.

4       Sec. 122.358. POWERS AND DUTIES OF PEACE OFFICERS. (a) A  
5 peace officer may inspect and collect a reasonably sized sample of  
6 any material from the plant Cannabis sativa L. found in a vehicle to  
7 determine the delta-9 tetrahydrocannabinol concentration of the  
8 plant material. Unless a peace officer has probable cause to  
9 believe the plant material is marihuana, the peace officer may not:

10           (1) seize the plant material; or

11           (2) arrest the person transporting the plant material.

12       (b) A peace officer may detain any hemp being transported in  
13 this state until the person transporting the hemp provides the  
14 documentation required by Section 122.356. The peace officer shall  
15 immediately release the hemp to the person if the person produces  
16 documentation required by that section.

17       (c) If a peace officer has probable cause to believe that a  
18 person transporting hemp in this state is also transporting  
19 marihuana or a controlled substance, as defined by Section 481.002,  
20 Health and Safety Code, or any other illegal substance under state  
21 or federal law, the peace officer may seize and impound the hemp  
22 along with the controlled or illegal substance.

23       (d) This subchapter does not limit or restrict a peace  
24 officer from enforcing to the fullest extent the laws of this state  
25 regulating marihuana and controlled substances, as defined by  
26 Section 481.002, Health and Safety Code.

27       Sec. 122.359. CIVIL PENALTY. (a) A person who violates

1 Section 122.356 is liable to this state for a civil penalty in an  
2 amount not to exceed \$500 for each violation.

3 (b) The attorney general or any district or county attorney  
4 may bring an action to recover the civil penalty.

5 (c) A civil penalty collected under this section must be  
6 deposited in the hemp transportation account under Section 122.355.

7 Sec. 122.360. CRIMINAL OFFENSE. (a) A person commits an  
8 offense if the person violates Section 122.356.

9 (b) An offense under this section is a misdemeanor  
10 punishable by a fine of not more than \$1,000.

11 SUBCHAPTER I. ENFORCEMENT; PENALTIES

12 Sec. 122.401. PENALTY SCHEDULE. (a) The department by rule  
13 shall adopt a schedule of sanctions and penalties for violations of  
14 this chapter and rules adopted under this chapter that does not  
15 conflict with 7 U.S.C. Section 1639p(e).

16 (b) A penalty collected under this chapter other than a  
17 civil penalty collected under Subchapter H must be deposited in the  
18 state hemp production account under Section 122.003.

19 Sec. 122.402. ADMINISTRATIVE PENALTY. Except as provided  
20 by Section 122.403 and to the extent permitted under 7 U.S.C.  
21 Section 1639p(e), the department may impose an administrative  
22 penalty or other administrative sanction for a violation of this  
23 chapter or a rule or order adopted under this chapter, including a  
24 penalty or sanction under Section 12.020 or 12.0201.

25 Sec. 122.403. NEGLIGENT VIOLATIONS BY LICENSE HOLDER. (a)  
26 If the department determines that a license holder negligently  
27 violated this chapter or a rule adopted under this chapter, the

1 department shall enforce the violation in the manner provided by  
2 U.S.C. Section 1639p(e).

3 (b) A license holder described by Subsection (a) is not  
4 subject to a civil, criminal, or administrative enforcement action  
5 other than an enforcement action provided by this chapter.

6 (c) A license holder who violates this chapter by  
7 cultivating plants described by Section 122.202(b)(2):

8 (1) must comply with an enhanced testing protocol  
9 developed by the department;

10 (2) shall pay a fee in the amount of \$500 for each  
11 violation to cover the department's costs of administering the  
12 enhanced testing protocol; and

13 (3) shall be included on a list maintained by the  
14 department of license holders with negligent violations, which is  
15 public information for purposes of Chapter 552, Government Code.

16 (d) A person who negligently violates this chapter three  
17 times in any five-year period may not cultivate, process, or  
18 otherwise produce hemp in this state before the fifth anniversary  
19 of the date of the third violation. The department shall include  
20 each person subject to this subsection on a list of banned  
21 producers, which is public information for purposes of Chapter 552,  
22 Government Code.

23 Sec. 122.404. OTHER VIOLATIONS BY LICENSE HOLDER. If the  
24 department suspects or determines that a license holder violated  
25 this chapter or a rule adopted under this chapter with a culpable  
26 mental state greater than negligence, the department shall  
27 immediately report the license holder to:



1           (1) the United States attorney general; and  
2           (2) the attorney general of this state, who may:  
3                 (A) investigate the violation;  
4                 (B) institute proceedings for injunctive or  
5 other appropriate relief on behalf of the department; or  
6                 (C) report the matter to the Department of Public  
7 Safety and any other appropriate law enforcement agency.

8           SECTION 3. Subchapter A, Chapter 141, Agriculture Code, is  
9 amended by adding Section 141.008 to read as follows:

10          Sec. 141.008. HEMP IN COMMERCIAL FEED. The service may  
11 adopt rules authorizing, defining, and controlling the use of hemp  
12 and hemp products in commercial feed.

13          SECTION 4. Subchapter A, Chapter 431, Health and Safety  
14 Code, is amended by adding Section 431.011 to read as follows:

15          Sec. 431.011. APPLICABILITY OF CHAPTER TO CONSUMABLE HEMP  
16 PRODUCTS AND MANUFACTURERS. (a) This chapter applies to a  
17 consumable hemp product subject to Chapter 443. An article  
18 regulated under this chapter may not be deemed to be adulterated  
19 solely on the basis that the article is a consumable hemp product.

20          (b) Except as provided by Subsection (c), this chapter  
21 applies to the conduct of a person who holds a license under Chapter  
22 443.

23          (c) A person who holds a license under Chapter 443 related  
24 to the processing of hemp or the manufacturing of a consumable hemp  
25 product regulated under that chapter and is engaging in conduct  
26 within the scope of that license is not required to hold a license  
27 as a food manufacturer or food wholesaler under Subchapter J.

SECTION 5. Section 431.043, Health and Safety Code, is amended to read as follows:

Sec. 431.043. ACCESS TO RECORDS. A person who is required to maintain records under this chapter or Section 519 or 520(g) of the federal Act or a person who is in charge or custody of those records shall, at the request of the department or a health authority, permit the department or health authority at all reasonable times access to and to copy and verify the records, including records that verify that the hemp in a consumable hemp product was produced in accordance with Chapter 122, Agriculture Code, or 7 U.S.C. Chapter 38, Subchapter VII.

SECTION 6. Section 431.2211, Health and Safety Code, is amended by adding Subsection (a-3) to read as follows:

(a-3) A person is not required to hold a license under this subchapter if the person holds a license under Chapter 443 and is engaging in conduct within the scope of that license.

SECTION 7. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 443 to read as follows:

CHAPTER 443. MANUFACTURE, DISTRIBUTION, AND SALE OF CONSUMABLE  
HEMP PRODUCTS

## SUBCHAPTER A. GENERAL PROVISIONS

Sec. 443.001. DEFINITIONS. In this chapter:

(1) "Consumable hemp product" means food, a drug, a device, or a cosmetic, as those terms are defined by Section 431.002, that contains hemp or one or more hemp-derived cannabinoids, including cannabidiol.

(2) "Department" means the Department of State Health

1 Services.

2           (3) "Establishment" means each location where a person  
3 processes hemp or manufactures a consumable hemp product.

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

6           (5) "Hemp" has the meaning assigned by Section  
7 121.001, Agriculture Code.

8           (6) "License" means a consumable hemp product  
9 manufacturer's license issued under this chapter.

10           (7) "License holder" means an individual or business  
11 entity holding a license.

12           (8) "Manufacture" has the meaning assigned by Section  
13 431.002.

14           (9) "Process" means to extract a component of hemp,  
15 including cannabidiol or another cannabinoid, that is:

16                   (A) sold as a consumable hemp product;

17                   (B) offered for sale as a consumable hemp  
18 product;

19                   (C) incorporated into a consumable hemp product;

20 or

21                   (D) intended to be incorporated into a consumable  
22 hemp product.

23           (10) "QR code" means a quick response machine-readable  
24 code that can be read by a camera, consisting of an array of black  
25 and white squares used for storing information or directing or  
26 leading a user to additional information.

27           (11) "Smoking" means burning or igniting a substance

1 and inhaling the smoke or heating a substance and inhaling the  
2 resulting vapor or aerosol.

3 Sec. 443.002. APPLICABILITY OF OTHER LAW. Except as  
4 provided by Section 431.011(c), Chapter 431 applies to a license  
5 holder and a consumable hemp product regulated under this chapter.

6 Sec. 443.003. LOCAL REGULATION PROHIBITED. A municipality,  
7 county, or other political subdivision of this state may not enact,  
8 adopt, or enforce a rule, ordinance, order, resolution, or other  
9 regulation that prohibits the processing of hemp or the  
10 manufacturing or sale of a consumable hemp product as authorized by  
11 this chapter.

12 Sec. 443.004. SEVERABILITY. (a) A provision of this  
13 chapter or its application to any person or circumstance is invalid  
14 if the secretary of the United States Department of Agriculture  
15 determines that the provision or application conflicts with 7  
16 U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the  
17 state plan submitted under Chapter 121, Agriculture Code.

18 (b) The invalidity of a provision or application under  
19 Subsection (a) does not affect the other provisions or applications  
20 of this chapter that can be given effect without the invalid  
21 provision or application, and to this end the provisions of this  
22 chapter are declared to be severable.

23 SUBCHAPTER B. POWERS AND DUTIES

24 Sec. 443.051. RULEMAKING AUTHORITY OF EXECUTIVE  
25 COMMISSIONER. The executive commissioner shall adopt rules and  
26 procedures necessary to administer and enforce this chapter. Rules  
27 and procedures adopted under this section must be consistent with:

1           (1) an approved state plan submitted to the United  
2 States Department of Agriculture under Chapter 121, Agriculture  
3 Code; and

4           (2) 7 U.S.C. Chapter 38, Subchapter VII, and federal  
5 regulations adopted under that subchapter.

6       SUBCHAPTER C. CONSUMABLE HEMP PRODUCT MANUFACTURER LICENSE

7       Sec. 443.101. LICENSE REQUIRED; EXCEPTIONS. A person may  
8 not process hemp or manufacture a consumable hemp product in this  
9 state unless the person holds a license under this subchapter.

10       Sec. 443.102. LICENSE INELIGIBILITY. (a) An individual  
11 who is or has been convicted of a felony relating to a controlled  
12 substance under federal law or the law of any state may not, before  
13 the 10th anniversary of the date of the conviction:

14           (1) hold a license under this subchapter; or

15           (2) be a governing person of an establishment that  
16 holds a license under this subchapter.

17       (b) The department may not issue a license under this  
18 subchapter to a person who materially falsifies any information  
19 contained in an application submitted to the department under  
20 Section 443.103.

21       Sec. 443.103. APPLICATION; ISSUANCE. An individual or  
22 establishment may apply for a license under this subchapter by  
23 submitting an application to the department on a form and in the  
24 manner prescribed by the department. The application must be  
25 accompanied by:

26           (1) a legal description of each location where the  
27 applicant intends to process hemp or manufacture consumable hemp

1 products and the global positioning system coordinates for the  
2 perimeter of each location;

3 (2) written consent from the applicant or the property  
4 owner if the applicant is not the property owner allowing the  
5 department, the Department of Public Safety, and any other state or  
6 local law enforcement agency to enter onto all premises where hemp  
7 is processed or consumable hemp products are manufactured to  
8 conduct a physical inspection or to ensure compliance with this  
9 chapter and rules adopted under this chapter;

10 (3) any fees required by the department to be  
11 submitted with the application; and

12 (4) any other information required by department rule.

13 Sec. 443.104. TERM; RENEWAL. (a) A license is valid for  
14 one year and may be renewed as provided by this section.

15 (b) The department shall renew a license if the license  
16 holder:

17 (1) is not ineligible to hold the license under  
18 Section 443.102;

19 (2) submits to the department any license renewal fee;  
20 and

21 (3) does not owe any outstanding fees to the  
22 department.

23 Sec. 443.105. REVOCATION. The department shall revoke a  
24 license if the license holder is convicted of a felony relating to a  
25 controlled substance under federal law or the law of any state.

26 SUBCHAPTER D. TESTING OF CONSUMABLE HEMP PRODUCTS

27 Sec. 443.151. TESTING REQUIRED. (a) A consumable hemp

1 product must be tested as provided by:

2 (1) Subsections (b) and (c); or

3 (2) Subsection (d).

4 (b) Before a hemp plant is processed or otherwise used in  
5 the manufacture of a consumable hemp product, a sample representing  
6 the plant must be tested, as required by the executive  
7 commissioner, to determine:

8 (1) the concentration of various cannabinoids; and

9 (2) the presence or quantity of heavy metals,  
10 pesticides, and any other substance prescribed by the department.

11 (c) Before material extracted from hemp by processing is  
12 sold as, offered for sale as, or incorporated into a consumable hemp  
13 product, the material must be tested, as required by the executive  
14 commissioner, to determine:

15 (1) the presence of harmful microorganisms; and

16 (2) the presence or quantity of:

17 (A) any residual solvents used in processing, if  
18 applicable; and

19 (B) any other substance prescribed by the  
20 department.

21 (d) Except as otherwise provided by Subsection (e), before a  
22 consumable hemp product is sold at retail or otherwise introduced  
23 into commerce in this state, a sample representing the hemp product  
24 must be tested by a laboratory that is accredited by an  
25 accreditation body in accordance with International Organization  
26 for Standardization ISO/IEC 17025 or a comparable or successor  
27 standard to determine the delta-9 tetrahydrocannabinol

1 concentration of the product.

2 (e) A consumable hemp product is not required to be tested  
3 under Subsection (d) if each hemp-derived ingredient of the  
4 product:

5 (1) has been tested in accordance with Subsections (b)  
6 and (c); and

7 (2) does not have a delta-9 tetrahydrocannabinol  
8 concentration of more than 0.3 percent.

9 Sec. 443.152. PROVISIONS RELATED TO TESTING. (a) A  
10 consumable hemp product that has a delta-9 tetrahydrocannabinol  
11 concentration of more than 0.3 percent may not be sold at retail or  
12 otherwise introduced into commerce in this state.

13 (b) A person licensed under Chapter 122, Agriculture Code,  
14 shall provide to a license holder who is processing hemp harvested  
15 by the person or otherwise using that hemp to manufacture a  
16 consumable hemp product the results of a test conducted under that  
17 chapter, if available, as proof that the delta-9  
18 tetrahydrocannabinol concentration of the hemp does not exceed 0.3  
19 percent, including for purposes of Section 443.151(b)(1).

20 (c) A license holder shall make available to a seller of a  
21 consumable hemp product processed or manufactured by the license  
22 holder the results of testing required by Section 443.151. The  
23 results may accompany a shipment to the seller or be made available  
24 to the seller electronically. If the results are not able to be  
25 made available, the seller may have the testing required under  
26 Section 443.151 performed on the product and shall make the results  
27 available to a consumer.



1           SUBCHAPTER E. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

2           Sec. 443.201. POSSESSION, TRANSPORTATION, AND SALE OF  
3 CONSUMABLE HEMP PRODUCTS. (a) A person may possess, transport,  
4 sell, or purchase a consumable hemp product processed or  
5 manufactured in compliance with this chapter.

6           (b) The executive commissioner by rule must provide to a  
7 retailer of consumable hemp products fair notice of a potential  
8 violation concerning consumable hemp products sold by the retailer  
9 and an opportunity to cure a violation made unintentionally or  
10 negligently.

11          Sec. 443.202. REGULATION OF CERTAIN CANNABINOID OILS. (a)  
12 This section does not apply to low-THC cannabis regulated under  
13 Chapter 487.

14          (b) Notwithstanding any other law, a person may not sell,  
15 offer for sale, possess, distribute, or transport a cannabinoid  
16 oil, including cannabidiol oil, in this state:

17           (1) if the oil contains any material extracted or  
18 derived from the plant Cannabis sativa L., other than from hemp  
19 produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII;  
20 and

21           (2) unless a sample representing the oil has been  
22 tested by a laboratory that is accredited by an independent  
23 accreditation body in accordance with International Organization  
24 for Standardization ISO/IEC 17025 or a comparable or successor  
25 standard and found to have a delta-9 tetrahydrocannabinol  
26 concentration of not more than 0.3 percent.

27          (c) The department and the Department of Public Safety shall

1 establish a process for the random testing of cannabinoid oil,  
2 including cannabidiol oil, at various retail and other  
3 establishments that sell, offer for sale, distribute, or use the  
4 oil to ensure that the oil:

5 (1) does not contain harmful ingredients;

6 (2) is produced in compliance with 7 U.S.C. Chapter  
7 38, Subchapter VII; and

8 (3) has a delta-9 tetrahydrocannabinol concentration  
9 of not more than 0.3 percent.

10 Sec. 443.2025. PERMIT REQUIRED FOR RETAILERS OF CERTAIN  
11 PRODUCTS. (a) This section does not apply to low-THC cannabis  
12 regulated under Chapter 487.

13 (b) A person may not sell a consumable hemp product  
14 containing cannabidiol at retail in this state unless the person  
15 holds a permit issued by the department.

16 (c) A person is not required to hold a permit issued by the  
17 department under Subsection (b) if the person is:

18 (1) an employee of a permit holder; or

19 (2) a location affiliated with or owned, operated, or  
20 controlled by the permit holder whose address is maintained in a  
21 list by the permit holder under Subsection (d).

22 (d) A permit holder shall maintain a list of each location  
23 affiliated with or owned, operated, or controlled by the permit  
24 holder that sells products described by Subsection (b) at retail in  
25 this state. The permit holder shall make the list readily available  
26 to the department on request.

27 (e) The department shall adopt rules and may prescribe a

1 reasonable permit fee to implement and administer this section.

2       Sec. 443.203. DECEPTIVE TRADE PRACTICE. (a) A person who  
3 sells, offers for sale, or distributes a cannabinoid oil, including  
4 cannabidiol oil, that the person claims is processed or  
5 manufactured in compliance with this chapter commits a false,  
6 misleading, or deceptive act or practice actionable under  
7 Subchapter E, Chapter 17, Business & Commerce Code, if the oil is  
8 not processed or manufactured in accordance with this chapter.

9       (b) A person who sells, offers for sale, or distributes a  
10 cannabinoid oil commits a false, misleading, or deceptive act or  
11 practice actionable under Subchapter E, Chapter 17, Business &  
12 Commerce Code, if the oil:

13               (1) contains harmful ingredients;

14               (2) is not produced in compliance with 7 U.S.C.  
15 Chapter 38, Subchapter VII; or

16               (3) has a delta-9 tetrahydrocannabinol concentration  
17 of more than 0.3 percent.

18       Sec. 443.204. RULES RELATED TO SALE OF CONSUMABLE HEMP  
19 PRODUCTS. Rules adopted by the executive commissioner regulating  
20 the sale of consumable hemp products must to the extent allowable by  
21 federal law reflect the following principles:

22               (1) hemp-derived cannabinoids, including cannabidiol,  
23 are not considered controlled substances or adulterants;

24               (2) products containing one or more hemp-derived  
25 cannabinoids, such as cannabidiol, intended for ingestion are  
26 considered foods, not controlled substances or adulterated  
27 products;

1           (3) consumable hemp products must be packaged and  
2 labeled in the manner provided by Section 443.205; and

3           (4) the processing or manufacturing of a consumable  
4 hemp product for smoking is prohibited.

5           Sec. 443.205. PACKAGING AND LABELING REQUIREMENTS. (a)  
6 Before a consumable hemp product that contains or is marketed as  
7 containing more than trace amounts of cannabinoids may be  
8 distributed or sold, the product must be labeled in the manner  
9 provided by this section with the following information:

10           (1) batch identification number;

11           (2) batch date;

12           (3) product name;

13           (4) a uniform resource locator (URL) that provides or  
14 links to a certificate of analysis for the product or each  
15 hemp-derived ingredient of the product;

16           (5) the name of the product's manufacturer; and

17           (6) a certification that the delta-9  
18 tetrahydrocannabinol concentration of the product or each  
19 hemp-derived ingredient of the product is not more than 0.3  
20 percent.

21           (b) The label required by Subsection (a) may be in the form  
22 of:

23           (1) a uniform resource locator (URL) for the  
24 manufacturer's Internet website that provides or links to the  
25 information required by that subsection; and

26           (2) a QR code or other bar code that may be scanned and  
27 that leads to the information required by that subsection.

1        (c) The label required by Subsection (a) must appear on each  
2 unit of the product intended for individual retail sale. If that  
3 unit includes inner and outer packaging, the label may appear on any  
4 of that packaging.

5        (d) This section does not apply to sterilized seeds  
6 incapable of beginning germination.

7        Sec. 443.206. RETAIL SALE OF OUT-OF-STATE CONSUMABLE HEMP  
8 PRODUCTS. (a) Retail sales of consumable hemp products processed or  
9 manufactured outside of this state may be made in this state when  
10 the products were processed or manufactured legally in another  
11 state or jurisdiction in compliance with:

12        (1) that state or jurisdiction's plan approved by the  
13 United States Department of Agriculture under 7 U.S.C. Section  
14 1639p; or

15        (2) a plan established under 7 U.S.C. Section 1639q if  
16 that plan applies to the state or jurisdiction.

17        (b) The department shall maintain a list of states or other  
18 jurisdictions described by Subsection (a).

19        Sec. 443.207. TRANSPORTATION AND EXPORTATION OF CONSUMABLE  
20 HEMP PRODUCTS OUT OF STATE. Consumable hemp products may be legally  
21 transported across state lines and exported to foreign  
22 jurisdictions in a manner that is consistent with federal law and  
23 the laws of respective foreign jurisdictions.

24        SECTION 8. Sections 481.002(5) and (26), Health and Safety  
25 Code, are amended to read as follows:

26        (5) "Controlled substance" means a substance,  
27 including a drug, an adulterant, and a dilutant, listed in

1 Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The  
2 term includes the aggregate weight of any mixture, solution, or  
3 other substance containing a controlled substance. The term does  
4 not include hemp, as defined by Section 121.001, Agriculture Code,  
5 or the tetrahydrocannabinols in hemp.

6 (26) "Marihuana" means the plant Cannabis sativa L.,  
7 whether growing or not, the seeds of that plant, and every compound,  
8 manufacture, salt, derivative, mixture, or preparation of that  
9 plant or its seeds. The term does not include:

10 (A) the resin extracted from a part of the plant  
11 or a compound, manufacture, salt, derivative, mixture, or  
12 preparation of the resin;

13 (B) the mature stalks of the plant or fiber  
14 produced from the stalks;

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

16 (D) a compound, manufacture, salt, derivative,  
17 mixture, or preparation of the mature stalks, fiber, oil, or cake;  
18 [~~or~~]

19 (E) the sterilized seeds of the plant that are  
20 incapable of beginning germination; or

21 (F) hemp, as that term is defined by Section  
22 121.001, Agriculture Code.

23 SECTION 9. (a) Not later than the 90th day after the  
24 effective date of this Act, the Department of Agriculture shall  
25 submit for approval a state plan to the secretary of the United  
26 States Department of Agriculture as provided by Section 121.003,  
27 Agriculture Code, as added by this Act.

(b) The Department of Agriculture shall submit amended state plans as provided by Section 121.003(c), Agriculture Code, as added by this Act, as necessary until the plan is approved.

(c) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 10. The Department of Agriculture and the Department of State Health Services shall begin implementing the state plan approved by the secretary of the United States Department of Agriculture not later than the 30th day after the date on which the state plan is approved and shall fully implement the state plan as soon as practicable after the state plan is approved.

SECTION 11. Notwithstanding Chapter 443, Health and Safety Code, as added by this Act, a retailer may possess, transport, or sell a consumable hemp product, as defined by Section 443.001, Health and Safety Code, as added by this Act, that is part of the retailer's inventory on the effective date of this Act regardless of whether the product was processed, manufactured, packaged, or labeled in compliance with that chapter.

SECTION 12. Notwithstanding Section 443.2025, Health and Safety Code, as added by this Act, a person is not required to hold a permit to sell a consumable hemp product containing cannabidiol at retail in this state until the 60th day after the date the Department of State Health Services begins accepting applications for the permit.

SECTION 13. This Act takes effect immediately if it

1 receives a vote of two-thirds of all the members elected to each  
2 house, as provided by Section 39, Article III, Texas Constitution.  
3 If this Act does not receive the vote necessary for immediate  
4 effect, this Act takes effect September 1, 2019.



ADOPTED

Nov 15 2019

*Letay Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Charles Perry*

1 Amend C.S.H.B. No. 1325 (senate committee report) in SECTION  
2 2 of the bill by striking added Section 122.303, Agriculture Code  
3 (page 8, lines 17 through 29), and substituting the following:

4 Sec. 122.303. RETAIL SALE OF OUT-OF-STATE PRODUCTS. A  
5 nonconsumable hemp product manufactured outside of this state may  
6 be sold at retail in this state unless:

7 (1) the hemp used to manufacture the product was  
8 cultivated illegally; or

9 (2) the retail sale of the product in this state  
10 violates federal law.

ADOPTED

MAY 15 2019

FLOOR AMENDMENT NO. 2

*Letay Spaul*  
Secretary of the Senate

BY: *Chris Perry*

Amend C.S.H.B. No. 1325 (senate committee report) as follows:

(1) In SECTION 7 of the bill, strike added Sections 443.151(d) and (e), Health and Safety Code (page 13, lines 6 through 20), and substitute the following:

(d) Except as otherwise provided by Subsection (e), before a consumable hemp product is sold at retail or otherwise introduced into commerce in this state, a sample representing the hemp product must be tested:

(1) by a laboratory that is accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard to determine the delta-9 tetrahydrocannabinol concentration of the product; and

(2) by an appropriate laboratory to determine that the product does not contain a substance described by Subsection (b) or (c) in a quantity prohibited for purposes of those subsections.

(e) A consumable hemp product is not required to be tested under Subsection (d) if each hemp-derived ingredient of the product:

(1) has been tested in accordance with:

(A) Subsections (b) and (c); or

(B) Subsection (d); and

(2) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent.

(2) In SECTION 7 of the bill, strike added Section 443.2025, Health and Safety Code (page 14, lines 7 through 25), and substitute the following:

Sec. 443.2025. REGISTRATION REQUIRED FOR RETAILERS OF

CERTAIN PRODUCTS. (a) This section does not apply to low-THC cannabis regulated under Chapter 487.

(b) A person may not sell consumable hemp products containing cannabidiol at retail in this state unless the person registers with the department each location owned, operated, or controlled by the person at which those products are sold. A person is not required to register a location associated with an employee or independent contractor described by Subsection (d).

(c) The department may issue a single registration under Subsection (b) covering multiple locations owned, operated, or controlled by a person.

(d) A person is not required to register with the department under Subsection (b) if the person is:

(1) an employee of a registrant; or

(2) an independent contractor of a registrant who sells the registrant's products at retail.

(e) A registration is valid for one year and may be renewed as prescribed by department rule.

(f) The department by rule may adopt a registration fee schedule that establishes reasonable fee amounts for the registration of:

(1) a single location at which consumable hemp products containing cannabidiol are sold; and

(2) multiple locations at which consumable hemp products containing cannabidiol are sold under a single registration.

(g) The department shall adopt rules to implement and administer this section.

(3) In SECTION 7 of the bill, strike added Section 443.206, Health and Safety Code (page 15, lines 16 through 27), and substitute the following:

1       Sec. 443.206. RETAIL SALE OF OUT-OF-STATE CONSUMABLE HEMP  
2 PRODUCTS. Retail sales of consumable hemp products processed or  
3 manufactured outside of this state may be made in this state when  
4 the products were processed or manufactured in another state or  
5 jurisdiction in compliance with:

6               (1) that state or jurisdiction's plan approved by the  
7 United States Department of Agriculture under 7 U.S.C. Section  
8 1639p;

9               (2) a plan established under 7 U.S.C. Section 1639q if  
10 that plan applies to the state or jurisdiction; or

11               (3) the laws of that state or jurisdiction if the  
12 products are tested in accordance with, or in a manner similar to,  
13 Section 443.151.

14               (4) Strike SECTIONS 11 and 12 of the bill (page 16, lines 8  
15 through 20) and substitute the following:

16               SECTION 11. Notwithstanding Chapter 443, Health and Safety  
17 Code, as added by this Act, a retailer may possess, transport, or  
18 sell a consumable hemp product, as defined by Section 443.001,  
19 Health and Safety Code, as added by this Act, that becomes part of  
20 the retailer's inventory before rules under Section 443.051, Health  
21 and Safety Code, as added by this Act, become effective unless the  
22 product:

23               (1) is unsafe for consumption based on the presence or  
24 quantity of heavy metals, pesticides, harmful microorganisms, or  
25 residual solvents; or

26               (2) has a delta-9 tetrahydrocannabinol concentration  
27 of more than 0.3 percent.

28               SECTION 12. Notwithstanding Section 443.2025, Health and  
29 Safety Code, as added by this Act, a person is not required to  
30 register a location to sell a consumable hemp product containing  
31 cannabidiol at retail in this state before the 60th day after the

1 date the Department of State Health Services begins issuing  
2 registrations.

ADOPTED

V V  
MAY 15 2019

*Leta Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *Jose Rodriguez*

1 Amend C.S.H.B. No. 1325 (senate committee report) in SECTION  
2 2 of the bill, in added Section 122.055, Agriculture Code (page 4,  
3 between lines 32 and 33), by inserting the following appropriately  
4 lettered subsection and relettering subsequent subsections  
5 accordingly:

6 ( ) The department may coordinate with the Department of  
7 Public Safety to determine whether information included on a  
8 certificate or manifest issued under Subsection (a), including the  
9 unique identifying number, may be made available to law enforcement  
10 personnel through the Texas Law Enforcement Telecommunications  
11 System or a successor system of telecommunication used by law  
12 enforcement agencies and operated by the Department of Public  
13 Safety.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 16, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp; requiring occupational licenses; authorizing fees; creating criminal offenses; providing civil and administrative penalties.), **As Passed 2nd House**

**There would be an indeterminate fiscal impact to the state due to an unknown number of administrative penalties; number of authorizations and renewals that would be issued; and number of inspections and tests that would be conducted.**

The bill would amend the Agriculture Code regarding the production of hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor and the Attorney General, to develop a state plan to monitor and regulate the production of hemp in Texas and to submit that plan to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would require TDA to adopt rules to establish a state hemp production plan to monitor and regulate the production of hemp in Texas and to establish a program for certification of hemp seeds. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program up to maximum statutory fee amounts. The bill would authorize the Comptroller of Public Accounts (CPA) to allow TDA to collect fees higher than the maximum amounts established by the bill if necessary to cover TDA's costs of administering the hemp program.

Fees collected under the bill's provisions would be deposited into the newly created State Hemp Production Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would require that penalties collected under the provisions of the bill be deposited to the credit of the new account. The bill would require that money in the account only be appropriated for the administration and enforcement of the state hemp program.

The bill would require anyone shipping hemp in Texas to obtain a shipping certificate from TDA if the hemp was produced in Texas or to carry certain other specific documentation if the hemp was produced outside of Texas. Shipping hemp without the proper certification or documentation would be a misdemeanor punishable by a fine of not more than \$1,000 and would also subject the person to a civil penalty in an amount not to exceed \$500 for each violation. These civil penalties would be deposited to the Hemp Transportation Account, an account that would be created by the bill within the General Revenue Fund to be administered by TDA. Money in this fund could only be appropriated to TDA for the administration and enforcement of hemp shipping requirements. TDA would be authorized to transfer funds in the account to the Department of Public Safety

(DPS) for the purpose of inspecting vehicles transporting hemp and for laboratory testing of hemp taken from vehicles. The bill would authorize peace officers to inspect and collect samples from hemp found in a vehicle for testing, but would prohibit a peace officer from seizing the plant material or arresting the person transporting it unless the officer had probable cause to believe the plant material was marijuana. A peace officer would be authorized to detain a person transporting hemp until the person produces either a TDA-issued certificate for transport or appropriate documentation showing the provenance of the hemp outside of Texas. This analysis assumes that any additional equipment required by DPS for testing of hemp would be paid for out of the Hemp Transportation Account with proceeds from civil penalties. This analysis also assumes the provisions of the bill creating new criminal offenses would not result in a significant impact on state correctional populations or the demand for state correctional resources. Additional information is available in the Criminal Justice Impact Statement.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, or the number that would renew in subsequent years. This analysis assumes there would be a positive, but indeterminate fiscal impact to the state because the number of authorizations and renewals that would be issued and the number of inspections and tests that would be conducted each fiscal year cannot be determined.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined as the number of penalties and the amount of fines that would be assessed is unknown.

The bill would amend the Health and Safety Code to allow establishments to apply for a consumable hemp product manufacturer's license through the rules developed by the Department of State Health Services (DSHS). It would require an individual to register with DSHS with each location owned, operated, or controlled by the person at which the products are sold. The bill would allow DSHS to issue a single registration covering multiple locations, and would allow DSHS to adopt a reasonable fee for renewal of the registrations. The bill would require that a sample of a consumable hemp product be tested by an accredited laboratory to determine the delta-tetrahydrocannabinol (THC) concentrate of the product, presence of heavy metals, pesticides, and other substances prescribed by DSHS. The bill would require DSHS and the Department of Public Safety to establish a process for random testing of cannabinoid oil at various establishments that sell, offer the sale, distribute, or use the oil to ensure that oil does not contain harmful ingredients, is produced in compliance with federal regulation, and has a THC concentrate of less than 0.3 percent. The bill would require DSHS to maintain a list of states or jurisdictions that legally process and manufacture a consumable hemp product.

Based on information provided by DSHS, this analysis assumes that the agency would need \$362,330 in General Revenue in fiscal year 2020 to cover the costs of hiring staff and preparing to launch the program prior to collecting fees. The agency estimates that within four months the fees generated by the program would be sufficient to cover the costs of the program. Once the program is launched, all fees will be deposited to the credit of General Revenue-Dedicated Account 5024, Food and Drug Administration, and all agency costs would be paid from that account. This analysis assumes 13.0 FTEs would be necessary to implement the provisions of the bill each fiscal year with costs totaling \$1,408,772 in fiscal year 2020 and \$2,076,022 each subsequent fiscal year.

Based on the analysis of the Office of Court Administration and the Office of the Attorney



General, the duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 537 State Health Services, Department of, 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission, 551 Department of Agriculture, 696 Department of Criminal Justice

**LBB Staff:** WP, AMa, JPo, PBO, SZ, MW, SMi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 12, 2019**

**TO:** Honorable Bob Hall, Chair, Senate Committee on Agriculture

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp; requiring occupational licenses; authorizing fees; creating criminal offenses; providing civil and administrative penalties.), **Committee Report 2nd House, Substituted**

**There would be an indeterminate fiscal impact to the state due to an unknown number of administrative penalties; number of authorizations and renewals that would be issued; and number of inspections and tests that would be conducted.**

The bill would amend the Agriculture Code regarding the production of hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor and the Attorney General, to develop a state plan to monitor and regulate the production of hemp in Texas and to submit that plan to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would require TDA to adopt rules to establish a state hemp production plan to monitor and regulate the production of hemp in Texas and to establish a program for certification of hemp seeds. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program up to maximum statutory fee amounts. The bill would authorize the Comptroller of Public Accounts (CPA) to allow TDA to collect fees higher than the maximum amounts established by the bill if necessary to cover TDA's costs of administering the hemp program.

Fees collected under the bill's provisions would be deposited into the newly created State Hemp Production Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would require that penalties collected under the provisions of the bill be deposited to the credit of the new account. The bill would require that money in the account only be appropriated for the administration and enforcement of the state hemp program.

The bill would require anyone shipping hemp in Texas to obtain a shipping certificate from TDA if the hemp was produced in Texas or to carry certain other specific documentation if the hemp was produced outside of Texas. Shipping hemp without the proper certification or documentation would be a misdemeanor punishable by a fine of not more than \$1,000 and would also subject the person to a civil penalty in an amount not to exceed \$500 for each violation. These civil penalties would be deposited to the Hemp Transportation Account, an account that would be created by the bill within the General Revenue Fund to be administered by TDA. Money in this fund could only be appropriated to TDA for the administration and enforcement of hemp shipping requirements. TDA would be authorized to transfer funds in the account to the Department of Public Safety

(DPS) for the purpose of inspecting vehicles transporting hemp and for laboratory testing of hemp taken from vehicles. The bill would authorize peace officers to inspect and collect samples from hemp found in a vehicle for testing, but would prohibit a peace officer from seizing the plant material or arresting the person transporting it unless the officer had probable cause to believe the plant material was marijuana. A peace officer would be authorized to detain a person transporting hemp until the person produces either a TDA-issued certificate for transport or appropriate documentation showing the provenance of the hemp outside of Texas. This analysis assumes that any additional equipment required by DPS for testing of hemp would be paid for out of the Hemp Transportation Account with proceeds from civil penalties. This analysis also assumes the provisions of the bill creating new criminal offenses would not result in a significant impact on state correctional populations or the demand for state correctional resources. Additional information is available in the Criminal Justice Impact Statement.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, or the number that would renew in subsequent years. This analysis assumes there would be a positive, but indeterminate fiscal impact to the state because the number of authorizations and renewals that would be issued and the number of inspections and tests that would be conducted each fiscal year cannot be determined.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined as the number of penalties and the amount of fines that would be assessed is unknown.

The bill would amend the Health and Safety Code to allow an individual or establishment to apply for a consumable hemp product manufacturer's license through the rules developed by the Department of State Health Services (DSHS). The bill would require DSHS to renew and revoke licenses. The bill would require that a sample of a consumable hemp product be tested by an accredited laboratory to determine the delta-tetrahydrocannabinol (THC) concentrate of the product and prohibits the sale of a consumable hemp product that has a THC concentrate of at least 0.3 percent. The bill would require DSHS and DPS to establish a process for random testing of cannabinoid oil at various establishments that sell, distribute, or use the oil to ensure that oil does not contain harmful ingredients, is produced in compliance with federal regulation, and has a THC concentrate of less than 0.3 percent. The bill would allow DSHS to adopt rules and charge a reasonable permit fee to implement and administer the random testing. The bill would require DSHS to maintain a list of states or jurisdictions that legally process and manufacture a consumable hemp product.

Based on information provided by DSHS, this analysis assumes that the agency would need \$1,200,604 in General Revenue in fiscal year 2020 to cover the costs of hiring staff and preparing to launch the program prior to collecting fees. The agency estimates that within four months the fees generated by the program would be sufficient to cover the costs of the program. Once the program is launched, all fees will be deposited to the credit of General Revenue-Dedicated Account 5024, Food and Drug Administration, and all agency costs would be paid from that account. This analysis assumes 44.0 FTEs would be necessary to implement the provisions of the bill each fiscal year with costs totaling \$4,720,825 in fiscal year 2020 and \$5,984,094 in each subsequent fiscal year.

Based on the analysis of the Office of Court Administration and the Office of the Attorney General, the duties and responsibilities associated with implementing the provisions of the bill

could be accomplished using existing resources.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of, 551 Department of Agriculture, 696 Department of Criminal Justice

**LBB Staff:** WP, JPo, PBO, SZ, MW, SMi, AMa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 2, 2019**

**TO:** Honorable Bob Hall, Chair, Senate Committee on Agriculture

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp and products made from hemp; requiring authorization to produce hemp; authorizing penalties; authorizing fees.), **As Engrossed**

**There would be an indeterminate positive fiscal impact to the state due to an unknown number of administrative penalties; number of authorizations and renewals that would be issued; number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established.**

The bill would amend the Agriculture Code regarding the production of hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor, the Attorney General, and the Department of State Health Services (DSHS) to adopt rules regarding procedures for testing, enforcement, inspection, and administration of a hemp production program. TDA would be required to submit a state plan for monitoring and regulation of the production of hemp that contains the adopted rules to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would give DSHS primary jurisdiction over the processing, manufacturing, packing, transport, sale, and use of consumable hemp products. DSHS has indicated that the provisions of the bill could be implemented using existing resources.

The bill would require TDA to adopt rules to establish a state hemp program to promote the cultivation and processing of hemp, promote the commercial sale of hemp products, and regulate hemp production in Texas and to establish a program for certification of hemp seeds. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program. Fees collected under the bill's provisions would be deposited into the newly created State Hemp Program Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would also require that penalties collected under the provisions of the bill would be deposited to the credit of the new account. The bill would require that money in the account could only be appropriated for the administration and enforcement of the state hemp program.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, or the number that would renew in subsequent years. Similarly, TDA is not able to provide any amounts for the authorization, inspection, and plant testing fees that it would be required to establish under the requirements of the bill. The fiscal impact to the state cannot be determined due to the number of

authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined due to the number of penalties and the amount of fines that would be assessed is unknown.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 551 Department of Agriculture

**LBB Staff:** WP, PBO, SZ, MW, SMi, AMa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 11, 2019**

**TO:** Honorable Drew Springer, Chair, House Committee on Agriculture & Livestock

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp and products made from hemp; requiring authorization to produce hemp; authorizing penalties; authorizing fees.), **Committee Report 1st House, Substituted**

**There would be an indeterminate positive fiscal impact to the state due to the number of administrative penalties; the number of authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.**

The bill would amend the Agriculture Code regarding the production of hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor, the Attorney General, and the Department of State Health Services (DSHS) to adopt rules regarding procedures for testing, enforcement, inspection, and administration of a hemp production program. TDA would be required to submit a state plan for monitoring and regulation of the production of hemp that contains the adopted rules to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would give DSHS primary jurisdiction over the processing, manufacturing, packing, transport, sale, and use of consumable hemp products. DSHS has indicated that the provisions of the bill could be implemented using existing resources.

The bill would require TDA to adopt rules to establish a state hemp program to promote the cultivation and processing of hemp, promote the commercial sale of hemp products, and regulate hemp production in Texas and to establish a program for certification of hemp seeds. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program. Fees collected under the bill's provisions would be deposited into the newly created State Hemp Program Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would also require that penalties collected under the provisions of the bill would be deposited to the credit of the new account. The bill would require that money in the account could only be appropriated for the administration and enforcement of the state hemp program.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, or the number that would renew in subsequent years. Similarly, TDA is not able to provide any amounts for the authorization, inspection, and plant testing fees that it would be required to establish under the requirements of the bill. The fiscal impact to the state cannot be determined due to the number of

authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined due to the number of penalties and the amount of fines that would be assessed is unknown.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 551 Department of Agriculture

**LBB Staff:** WP, SZ, MW, PBO, SMi, AMa



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 31, 2019**

**TO:** Honorable Drew Springer, Chair, House Committee on Agriculture & Livestock

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp and products made from hemp; requiring authorization to produce hemp; authorizing penalties; authorizing fees.), **As Introduced**

**There would be an indeterminate positive fiscal impact to the state due to the number of administrative penalties; the number of authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.**

The bill would amend the Agriculture Code regarding the production of industrial hemp. It would require the Texas Department of Agriculture (TDA), in consultation with the Governor and the Attorney General, to adopt rules regarding procedures for testing, enforcement, inspection, and administration of a hemp production program. TDA would be required to submit a state plan for monitoring and regulation of the production of hemp that contains the adopted rules to the U.S. Department of Agriculture. This analysis assumes TDA could accomplish this using existing resources.

The bill would require TDA to adopt rules to establish a state hemp program to promote the cultivation and processing of hemp, promote the commercial sale of hemp products, and regulate hemp production in Texas. It would require TDA to set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the state hemp program. Fees collected under the bill's provisions would be deposited into the newly created State Hemp Program Account in the General Revenue Fund to be administered by TDA. In addition to other revenues, the bill would also require that penalties collected under the provisions of the bill would be deposited to the credit of the new account. The bill would require that money in the account could only be appropriated for the administration and enforcement of the state hemp program.

TDA indicates it is unable to estimate the number of applications it would receive from producers for industrial hemp, the number of authorizations it would issue each fiscal year, nor the number that would renew in subsequent years. Similarly, TDA is not able to provide any amounts for the authorization, inspection, and plant testing fees that it would be required to establish under the requirements of the bill. The fiscal impact to the state cannot be determined due to the number of authorizations and renewals that would be issued; the number of inspections and tests that would be conducted; and amounts for authorization, testing, and inspection fees that would be established being unknown.

The bill would allow only persons authorized by TDA under the state hemp program to cultivate, handle, or process hemp or to transport hemp outside the state. The bill would allow TDA to assess an administrative penalty of up to \$5,000 per violation against violators of the state hemp program. The fiscal impact to the state resulting from administrative penalties cannot be determined due to the number of penalties and the amount in fines that would be assessed is unknown.

Based on the analysis of the Comptroller of Public Accounts, the bill would create an indeterminate positive fiscal impact to the state from the fees and administrative penalties that would be assessed under the provisions of the bill.

The bill would take immediate effect if it received a two-thirds majority vote of members of both houses of the Legislature, otherwise it would take effect September 1, 2019.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 551 Department of Agriculture

**LBB Staff:** WP, SZ, MW, PBO, SMi, AMa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 12, 2019**

**TO:** Honorable Bob Hall, Chair, Senate Committee on Agriculture

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1325** by King, Tracy O. (Relating to the production and regulation of hemp; requiring occupational licenses; authorizing fees; creating criminal offenses; providing civil and administrative penalties.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Health and Safety Code to exclude hemp from the definition of a controlled substance and marihuana. Under current statute, the possession or delivery of substances containing hemp is punished under the offenses of possession or delivery of marihuana at both the misdemeanor and felony level with the punishment level based on the specific circumstances of the offense. The bill would also amend the Agriculture Code to create a third degree felony for the falsification of a laboratory report involving hemp or the transportation of hemp under certain circumstances. A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term of 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Reducing the list of behaviors for which a criminal penalty can be applied is expected to result in fewer demands upon the correctional resources of counties or of the state due to a decrease in individuals placed under community supervision or sentenced to a term of confinement within state correctional institutions. The bill may have a positive population impact by decreasing the number of people placed under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant impact on state correctional populations cannot be determined due to the lack of data or information related to the number of people who are prosecuted under current statute for the possession or delivery of substances containing hemp as outlined in the bill's provisions. In fiscal year 2018, 6,774 people were arrested, 1,158 were placed under felony community supervision, and 781 were admitted into state correctional institutions for the offense of possession or delivery of marihuana. Creating a new criminal offense for the falsification of a laboratory report involving hemp or the transportation of hemp under certain circumstances is expected to result in additional demands upon the correctional resources of the counties and of the state due to an increase in individuals placed under supervision in the community or admitted into state correctional institutions. This analysis assumes the provisions of the bill creating new criminal offenses would not result in a significant impact on state correctional populations or the demand for state correctional resources.

**Source Agencies:**

**LBB Staff:** WP, LM, JPo