

SENATE AMENDMENTS

2nd Printing

By: Klick, Zerwas, Oliverson, Sheffield,
Coleman, et al.

H.B. No. 3703

A BILL TO BE ENTITLED

AN ACT

relating to the dispensing, administration, and use of low-THC
cannabis; authorizing low-THC cannabis research; authorizing a
fee.

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

SECTION 1. Subchapter A, Chapter 37, Education Code, is
amended by adding Section 37.0015 to read as follows:

Sec. 37.0015. LOW-THC CANNABIS. Notwithstanding any other
provision of this chapter, a student for whom low-THC cannabis was
prescribed under Chapter 169, Occupations Code, may not be subject
to suspension, expulsion, placement in a disciplinary alternative
education program, or any other form of discipline solely because
the student possessed, used, or was under the influence of the
low-THC cannabis.

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

(a) The following persons may possess a controlled
substance under this chapter without registering with the Federal
Drug Enforcement Administration:

(1) an agent or employee of a manufacturer,
distributor, analyzer, or dispenser of the controlled substance who
is registered with the Federal Drug Enforcement Administration and
acting in the usual course of business or employment;

(2) a common or contract carrier, a warehouseman, or

1 an employee of a carrier or warehouseman whose possession of the
2 controlled substance is in the usual course of business or
3 employment;

4 (3) an ultimate user or a person in possession of the
5 controlled substance under a lawful order of a practitioner or in
6 lawful possession of the controlled substance if it is listed in
7 Schedule V;

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

14 (5) if the substance is tetrahydrocannabinol or one of
15 its derivatives, +

16 ~~[(A) a Department of State Health Services~~
17 ~~official, a medical school researcher, or a research program~~
18 ~~participant possessing the substance as authorized under~~
19 ~~Subchapter C, or~~

20 ~~[(B)]~~ a practitioner or an ultimate user
21 possessing the substance as a participant in a federally approved
22 therapeutic research program that the commissioner has reviewed and
23 found, in writing, to contain a medically responsible research
24 protocol; or

25 (6) a dispensing organization licensed under Chapter
26 487 that possesses low-THC cannabis.

27 SECTION 3. Chapter 481, Health and Safety Code, is amended

by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. LOW-THC CANNABIS RESEARCH PROGRAM

Sec. 481.251. DEFINITIONS. In this subchapter:

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

(2) "Health-related institution" has the meaning assigned by Section 62.161, Education Code, as added by Chapter 448 (H.B. 7), Acts of the 84th Legislature, Regular Session, 2015.

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

Sec. 481.252. LOW-THC CANNABIS RESEARCH PROGRAM. (a) Subject to Section 481.253, the executive commissioner by rule shall establish a low-THC cannabis research program to be conducted by one or more health-related institutions in this state.

(b) In adopting rules under this section, the executive commissioner may provide:

(1) procedures for a health-related institution in this state to apply to the commission for a permit to conduct low-THC cannabis research under the program established by this subchapter;

(2) criteria for granting a permit to a health-related institution to conduct low-THC cannabis research;

(3) any applicable fees for a permit to conduct low-THC cannabis research;

(4) limitations concerning the medical conditions for which low-THC cannabis research may be conducted under the program;

(5) restrictions related to facilities where low-THC

cannabis research may be conducted; and

(6) any other conditions related to low-THC cannabis research that are necessary to comply with federal law regarding cannabis research with human subjects.

Sec. 481.253. COMPLIANCE WITH FEDERAL LAW. (a) The executive commissioner shall make or assist a health-related institution seeking to conduct research into low-THC cannabis in making all necessary applications to appropriate federal agencies to establish the program under this subchapter in compliance with federal law.

(b) The commission is not required to establish the program under this subchapter if a registration or license required by federal law to operate the program cannot be obtained.

SECTION 4. Section 487.101, Health and Safety Code, is amended to read as follows:

Sec. 487.101. LICENSE REQUIRED; DISPENSING LOCATIONS. (a) A license issued by the department under this chapter is required to operate a dispensing organization.

(b) A dispensing organization may operate more than one dispensing location under a single license issued by the department under this chapter if the department determines that more than one dispensing location is necessary to meet patient access needs.

SECTION 5. Section 487.107, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) On request of the department, a dispensing organization must provide to the department a sample suitable for testing of low-THC cannabis dispensed by the organization.

SECTION 6. Section 169.001(3), Occupations Code, is amended to read as follows:

(3) "Low-THC cannabis" means the plant *Cannabis sativa* L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains ~~+~~

~~[(A)]~~ not more than 0.5 percent by weight of tetrahydrocannabinols ~~+, and~~

~~[(B) not less than 10 percent by weight of cannabidiol]~~.

SECTION 7. Sections 169.002 and 169.003, Occupations Code, are amended to read as follows:

Sec. 169.002. PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC CANNABIS TO PATIENTS WITH CERTAIN MEDICAL CONDITIONS. (a) Only a physician qualified as provided by this section may prescribe low-THC cannabis in accordance with this chapter.

(b) A physician is qualified to prescribe low-THC cannabis to a patient with ~~[intractable]~~ epilepsy, multiple sclerosis, or spasticity only if the physician:

(1) is licensed under this subtitle;

(2) dedicates a significant portion of clinical practice to the evaluation and treatment of that patient's medical condition ~~[epilepsy]~~; and

(3) is certified:

(A) by the American Board of Psychiatry and Neurology ~~[in+~~

~~[(i) epilepsy, or~~

1 ~~[(ii) neurology or neurology with special~~
2 ~~qualification in child neurology and is otherwise qualified for the~~
3 ~~examination for certification in epilepsy]; or~~

4 (B) in neurophysiology by:

5 (i) the American Board of Psychiatry and
6 Neurology; or

7 (ii) the American Board of Clinical
8 Neurophysiology.

9 Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. A
10 physician described by Section 169.002 may prescribe low-THC
11 cannabis to a patient ~~[alleviate a patient's seizures]~~ if:

12 (1) the patient is a permanent resident of this ~~[the]~~
13 state;

14 (2) the physician complies with the registration
15 requirements of Section 169.004; and

16 (3) the physician certifies to the department that:

17 (A) the patient is diagnosed with:

18 (i) [intractable] epilepsy;

19 (ii) multiple sclerosis; or

20 (iii) spasticity;

21 (B) the physician determines the risk of the
22 medical use of low-THC cannabis by the patient is reasonable in
23 light of the potential benefit for the patient; and

24 (C) a second physician licensed in this state
25 ~~[qualified to prescribe low-THC cannabis under Section 169.002]~~ has
26 concurred with the determination under Paragraph (B), and the
27 second physician's concurrence is recorded in the patient's medical

1 record.

2 SECTION 8. (a) Subchapter G, Chapter 481, Health and Safety
3 Code, is repealed.

4 (b) Section 169.001(2), Occupations Code, is repealed.

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

ADOPTED

MAY 22 2019

Leroy Spaw
Secretary of the Senate

By: Klick / Campbell

____.B. No. ____

Substitute the following for ____B. No. ____:

By: *Campbell*

C.S. H.B. No. 3703

A BILL TO BE ENTITLED

AN ACT

relating to the prescription of low-THC cannabis for medical use by certain qualified physicians to patients with certain medical conditions.

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

SECTION 1. Section 169.001, Occupations Code, is amended by adding Subdivisions (1-a) and (6) and amending Subdivision (3) to read as follows:

(1-a) "Incurable neurodegenerative disease" means a disease designated as an incurable neurodegenerative disease by rule of the executive commissioner of the Health and Human Services Commission, adopted in consultation with the National Institutes of Health.

(3) "Low-THC cannabis" means the plant Cannabis sativa L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains[+]

[~~(A)~~] not more than 0.5 percent by weight of tetrahydrocannabinols[~~+~~ and

[~~(B)~~ not less than 10 percent by weight of cannabidiol].

(6) "Terminal cancer" means cancer that meets the criteria for a terminal illness, as defined by Section 1003.051, Health and Safety Code.

1 SECTION 2. Chapter 169, Occupations Code, is amended by
2 adding Section 169.0011 and amending Sections 169.002, 169.003, and
3 169.004 to read as follows:

4 Sec. 169.0011. PRESCRIPTION FOR MEDICAL USE. A reference
5 in this chapter, Chapter 487, Health and Safety Code, or other law
6 to a prescription for medical use or a prescription for low-THC
7 cannabis means an entry in the compassionate-use registry
8 established under Section 487.054, Health and Safety Code.

9 Sec. 169.002. PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC
10 CANNABIS TO PATIENTS WITH CERTAIN MEDICAL CONDITIONS. (a) Only a
11 physician qualified with respect to a patient's particular medical
12 condition as provided by this section may prescribe low-THC
13 cannabis in accordance with this chapter to treat the applicable
14 medical condition.

15 (b) A physician is qualified to prescribe low-THC cannabis
16 with respect to a patient's particular medical condition ~~[to a~~
17 ~~patient with intractable epilepsy]~~ if the physician:

18 (1) is licensed under this subtitle;

19 (2) is board certified in a medical specialty relevant
20 to the treatment of the patient's particular medical condition by a
21 specialty board approved by the American Board of Medical
22 Specialties or the Bureau of Osteopathic Specialists; and

23 (3) dedicates a significant portion of clinical
24 practice to the evaluation and treatment of the patient's
25 particular medical condition ~~[epilepsy, and~~

26 ~~[(3) is certified;~~

27 ~~[(A) by the American Board of Psychiatry and~~

1 (B) the physician determines the risk of the
2 medical use of low-THC cannabis by the patient is reasonable in
3 light of the potential benefit for the patient[, and

4 [~~(C) a second physician qualified to prescribe~~
5 ~~low-THC cannabis under Section 169.002 has concurred with the~~
6 ~~determination under Paragraph (B), and the second physician's~~
7 ~~concurrence is recorded in the patient's medical record]~~.

8 Sec. 169.004. LOW-THC CANNABIS PRESCRIBER REGISTRATION.

9 (a) Before a physician qualified to prescribe low-THC cannabis
10 under Section 169.002 may prescribe or renew a prescription for
11 low-THC cannabis for a patient under this chapter, the physician
12 must register as the prescriber for that patient in the
13 compassionate-use registry maintained by the department under
14 Section 487.054, Health and Safety Code. The physician's
15 registration must indicate:

16 (1) the physician's name;
17 (2) the patient's name and date of birth;
18 (3) the dosage prescribed to the patient;
19 (4) the means of administration ordered for the
20 patient; and

21 (5) the total amount of low-THC cannabis required to
22 fill the patient's prescription.

23 (b) The department may not publish the name of a physician
24 registered under this section unless permission is expressly
25 granted by the physician.

26 SECTION 3. Section 169.001(2), Occupations Code, is
27 repealed.

1 SECTION 4. Not later than December 1, 2019, the executive
2 commissioner of the Health and Human Services Commission, in
3 consultation with the National Institutes of Health, shall adopt
4 rules designating diseases as incurable neurodegenerative diseases
5 for which patients may be prescribed low-THC cannabis for medical
6 use under Chapter 169, Occupations Code, as amended by this Act.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 22, 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: HB3703 by Klick (Relating to the prescription of low-THC cannabis for medical use by certain qualified physicians to patients with certain medical conditions.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would expand the Compassionate Use Program by adding Amyotrophic Lateral Sclerosis (ALS), autism, terminal cancer, and incurable neurodegenerative diseases to the list of medical conditions for which a physician may prescribe low-THC cannabis to a patient. The bill would prohibit the Department of Public Safety (DPS) from publishing the name of a physician registered in the department's Compassionate Use Registry unless permission is expressly granted by the physician.

The Texas Medical Board indicate that the provisions of the bill could be absorbed using existing resources.

DPS would incur costs related to licensing additional dispensing organizations under the Compassionate Use Program and making updates to its Compassionate Use Registry Application. However, Health and Safety Code, Section 487.052, requires the agency to set fees for the program at a level that is sufficient to cover the cost of its administration, so there would be no fiscal impact to the State.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board, 529 Health and Human Services Commission, 537 State Health Services, Department of, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 768 Texas Tech University System Administration, 769 University of North Texas System Administration

LBB Staff: WP, SD, AKi, JQ, BH, AMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 19, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

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

IN RE: HB3703 by Klick (Relating to the prescription of low-THC cannabis for medical use by certain qualified physicians to patients with certain medical conditions.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would expand the Compassionate Use Program by adding Amyotrophic Lateral Sclerosis (ALS), autism, terminal cancer, and incurable neurodegenerative diseases to the list of medical conditions for which a physician may prescribe low-THC cannabis to a patient. The bill would prohibit the Department of Public Safety (DPS) from publishing the name of a physician registered in the department's Compassionate Use Registry unless permission is expressly granted by the physician.

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LBB Staff: WP, AKi, JQ, BH, AMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

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

IN RE: HB3703 by Klick (Relating to the dispensing, administration, and use of low-THC cannabis; authorizing low-THC cannabis research; authorizing a fee.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would require the Health and Human Services Commission (HHSC) to establish a low-THC cannabis research program to be conducted by one or more health-related institutions in the state. The commission would be authorized to establish fees for a permit to conduct low-THC cannabis research. The bill would also make patients with additional forms of epilepsy, multiple sclerosis and spasticity eligible for a low-THC cannabis prescription, and allow dispensing organizations to operate more than one location under a single Department of Public Safety (DPS) license. The bill would prohibit the suspension, expulsions or placement of a student in a disciplinary alternative education program because the student possessed, used, or was under the influence of prescribed low-THC cannabis.

HHSC and the Texas Education Agency indicate that the provisions of the bill could be absorbed using existing resources.

DPS would incur costs related to licensing additional dispensing organizations under the Compassionate Use Program and making updates to its Compassionate Use Registry Application. However, Health and Safety Code, Section 487.052, requires the agency to set fees for the program at a level that is sufficient to cover the cost of its administration, so there would be no fiscal impact to the State.

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LBB Staff: WP, AKi, JQ, BH, AMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 27, 2019

TO: Honorable Senfronia Thompson, Chair, House Committee on Public Health

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

IN RE: HB3703 by Klick (Relating to the dispensing, administration, and use of low-THC cannabis; authorizing low-THC cannabis research; authorizing a fee.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the Health and Human Services Commission (HHSC) to establish a low-THC cannabis research program to be conducted by one or more health-related institutions in the state. The commission would be authorized to establish fees for a permit to conduct low-THC cannabis research. The bill would also make patients with additional forms of epilepsy, multiple sclerosis and spasticity eligible for a low-THC cannabis prescription, and allow dispensing organizations to operate more than one location under a single Department of Public Safety (DPS) license. The bill would prohibit the suspension, expulsions or placement of a student in a disciplinary alternative education program because the student possessed, used, or was under the influence of prescribed low-THC cannabis.

HHSC and the Texas Education Agency indicate that the provisions of the bill could be absorbed using existing resources.

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LBB Staff: WP, AKi, JQ, BH, AMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 10, 2019

TO: Honorable Senfronia Thompson, Chair, House Committee on Public Health

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

IN RE: HB3703 by Klick (Relating to the dispensing, administration, and use of low-THC cannabis; authorizing medical cannabis research; authorizing a fee.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require the Health and Human Services Commission (HHSC) to establish a medical cannabis research program to be conducted by one or more medical schools in the state. The commission would be authorized to establish fees for a permit to conduct medical cannabis research. The bill would also make patients with additional forms of epilepsy, multiple sclerosis and spasticity eligible for a low-THC cannabis prescription, and allow dispensing organizations to operate more than one location under a single Department of Public Safety (DPS) license. The bill would prohibit the suspension, expulsions or placement of a student in a disciplinary alternative education program because the student possessed, used, or was under the influence of prescribed low-THC cannabis.

HHSC and the Texas Education Agency indicate that the provisions of the bill could be absorbed using existing resources.

DPS would incur costs related to licensing additional dispensing organizations under the Compassionate Use Program and making updates to its Compassionate Use Registry Application. However, Health and Safety Code, Section 487.052, requires the agency to set fees for the program at a level that is sufficient to cover the cost of its administration, so there would be no fiscal impact to the State.

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LBB Staff: WP, AKi, JQ, BH, AMa