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HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
SECTION 1. This Act may be cited as the Hemp Farming Act.	No equivalent provision.	
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.	No equivalent provision.	
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:	SECTION 1. Same as House version.	
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	

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Subchapters A, B, and C, Chapter 71		
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:

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

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

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<p><u>(1) a practice to maintain relevant information regarding land on which hemp is produced in this state, including a legal description of the land, for a period of at least three calendar years;</u></p> <p><u>(2) a procedure for testing, using post-decarboxylation, high-performance liquid chromatography, or another similarly reliable method, the delta-9 tetrahydrocannabinol concentration of hemp produced in this state;</u></p> <p><u>(3) a procedure for the effective disposal of plants, whether growing or not, that are produced in violation of 7 U.S.C. Chapter 38, Subchapter VII, and products derived from those plants;</u></p> <p><u>(4) a procedure to comply with the enforcement procedures described by 7 U.S.C. Section 1639p(e);</u></p> <p><u>(5) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of 7 U.S.C. Chapter 38, Subchapter VII;</u></p> <p><u>(6) a procedure for submitting the information described in 7 U.S.C. Section 1639q(d)(2), as applicable, to the secretary of the United States Department of Agriculture not later than the 30th day after the date the information is received; and</u></p> <p><u>(7) standards for certifying that this state has the resources and personnel to carry out the practices and procedures described by Subdivisions (1) through (6).</u></p> <p><u>(b) The department shall adopt rules under Subsection (a) that will, in substance, meet the requirements for approval as a state plan under 7 U.S.C. Section 1639p.</u></p> <p><u>Sec. 121.004. MEMORANDUM OF UNDERSTANDING WITH DEPARTMENT OF STATE HEALTH SERVICES. The department and the Department of State Health Services shall enter into a memorandum of understanding that:</u></p>	<p><u>(2) Chapter 122; and</u></p> <p><u>(3) Chapter 443, Health and Safety Code.</u></p>	

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

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

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

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

(c) The department shall, as necessary, seek technical assistance from the secretary of the United States Department of 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.

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

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

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

Sec. 121.004. RULES. The department may adopt any rules necessary to implement and administer the state plan under Section 121.003.

CHAPTER 122. CULTIVATION OF HEMP
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 122.001. DEFINITIONS. In this chapter:

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(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.

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

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

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

(A) on premises owned, operated, or controlled by a license holder 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 license holder to:

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

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

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

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<p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(10) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.</u></p> <p><u>(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.</u></p>	<p><u>(5) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.</u></p> <p><u>(6) "License" means a hemp grower's license issued under Subchapter C.</u></p> <p><u>(7) "License holder" means an individual or business entity holding a license.</u></p> <p><u>(8) "Nonconsumable hemp product" means a product that contains hemp, other than a consumable hemp product as defined by Section 443.001, Health and Safety Code. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, and plastics derived from hemp.</u></p> <p><u>(9) "Plot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or cultivar of hemp throughout the area.</u></p>	

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

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

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

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

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

(b) The account consists of:

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

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

(3) fees received under Section 122.053;

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

(5) penalties collected under this chapter; and

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

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

Sec. 122.003. STATE HEMP PRODUCTION ACCOUNT.

(a) The state hemp production account is an account in the general revenue fund administered by the department.

(b) The account consists of:

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

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

(3) fees received under Section 122.052;

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

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

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

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

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

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

SUBCHAPTER B. STATE HEMP PROGRAM

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

Sec. 122.052. PROGRAM RULES.

(a) The department shall adopt rules to establish a state hemp program that:

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

(2) regulates hemp production in this state.

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

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

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

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

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

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

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

- (1) relevant public agencies; and
- (2) private, nonprofit associations in the hemp industry that promote standards, best practices, and self-regulation in the production of hemp.

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

- (1) establish requirements by which the department authorizes an individual or business entity to participate in the state hemp program as a hemp producer;
- (2) prescribe the manner in which an institution of higher education may participate in or be affiliated with the program;
- (3) prescribe sampling, inspection, certification, and testing procedures to ensure that hemp plants cultivated, handled, or processed in this state, and hemp products processed in this state, do not exceed the federally defined THC level for hemp;
- (4) provide due process consistent with Chapter 2001, Government Code, including an appeals process, to protect hemp producers from the consequences of imperfect test results; and
- (5) prescribe enforcement procedures that are consistent with 7 U.S.C. Section 1639p(e).

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

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

(1) prescribe sampling, inspection, and testing procedures, including standards and procedures for the calibration of laboratory equipment, to ensure that the delta-9 tetrahydrocannabinol concentration of hemp plants cultivated in this state is not more than 0.3 percent on a dry weight basis; and

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

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

- (1) an application fee for an initial license in an amount not to exceed \$100;
- (2) a license renewal fee in an amount not to exceed \$100;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) If, after conducting an inspection or performing testing under this section, the department or the Department of Public Safety determines any portion of a plot is not compliant with this chapter, the department or the Department of Public Safety may report the license holder to the other department or to the attorney general.

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

SUBCHAPTER C. HEMP GROWER'S LICENSE

Sec. 122.101. LICENSE REQUIRED; EXCEPTIONS. (a) Except as provided by Subsection (b), a person or the person's agent may not cultivate or handle hemp in this state or transport hemp outside of this state unless the person holds a license under this subchapter.

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

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this section to participate in the state hemp program as a hemp producer.

(b) A person seeking to participate in the state hemp program as a hemp producer must apply to the department on a form and in the manner prescribed by the department. The application must be accompanied by:
(1) a legal description of each location where the person intends to cultivate or process hemp and the global positioning system coordinates for the perimeter of each location;
(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is cultivated, processed, handled, or stored to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter;

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(b) A person is not required to hold a license under this subchapter to manufacture a consumable hemp product in accordance with Subtitle A, Title 6, Health and Safety Code. Sec. 122.102. LICENSE INELIGIBILITY. (a) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:
(1) hold a license under this subchapter; or
(2) be a governing person of a business entity that holds a license under this subchapter.
(b) The department may not issue a license under this subchapter to a person who materially falsifies any information contained in an application submitted to the department under Section 122.103.
Sec. 122.103. APPLICATION; ISSUANCE. (a) A person may apply for a license under this subchapter by submitting an application to the department on a form and in the manner prescribed by the department. The application must be accompanied by:
(1) a legal description of each location where the applicant intends to cultivate or handle hemp and the global positioning system coordinates for the perimeter of each location;
(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is cultivated or handled to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter;

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(3) any fees required by the department to be submitted with the application; and
(4) any other information required by department rule.
(c) If the department determines that a person who submits an application under this section meets the state hemp program participation requirements prescribed by department rule, the department shall authorize the person to participate in the program as a hemp producer in the manner provided by department rule.

Sec. 122.055. LIMITATION ON PROGRAM PARTICIPATION. (a) A person who is or has been convicted of a felony relating to a controlled substance under state or federal law may not participate in the state hemp program established under this subchapter or produce hemp in this state under any other law for a period of at least 10 years after the date of the person's conviction.
(b) A person who materially falsifies any information contained in an application submitted to the department

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(3) the application fee; and
(4) any other information required by department rule.
(b) Except as provided by Subsection (c), the department shall issue a license to a qualified applicant not later than the 60th day after the date the department receives the completed application and the required application fees.
(c) A qualified applicant who along with the application submits proof to the department that the applicant holds a license under Chapter 487, Health and Safety Code, is not required to pay an application fee, and the department shall issue the license to the applicant within the time prescribed by Subsection (b).
Sec. 122.104. TERM; RENEWAL. (a) A license is valid for one year and may be renewed as provided by this section.
(b) The department shall renew a license if the license holder:
(1) is not ineligible to hold the license under Section 122.102;
(2) submits to the department the license renewal fee; and
(3) does not owe any outstanding fee described by Section 122.052.
Sec. 122.105. REVOCATION. The department shall revoke a license if the license holder is convicted of a felony relating to a controlled substance under federal law or the law of any state.

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under Section 122.054 may not participate in the state hemp program.

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

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

(1) the United States attorney general; and

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

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

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

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

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

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

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

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

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

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

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

(A) trim, extract, or separate the plants until the remaining plants or plant parts do not exceed the federally defined THC level for hemp and dispose of the noncompliant plants or plant parts in a manner approved by the department;

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

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

SUBCHAPTER C. TESTING

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

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

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

Sec. 122.103. REPRESENTATIVE SAMPLE.

(a) For purposes of Section 122.102, a representative sample of hemp plants from a plot consists of cuttings taken from at least five plants throughout the plot.

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

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Sec. 122.153. PREHARVEST TESTING REQUIRED. (a) A license holder may not harvest a hemp plant or plant intended or believed to be hemp unless a representative sample of plants from the plot where the plant is grown is collected before harvest and subsequently tested using post-decarboxylation, high-performance liquid chromatography, or another similarly reliable method to determine the delta-9 tetrahydrocannabinol concentration of the sample in the manner required by this subchapter.

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

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

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

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

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

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

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

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

(c) A hemp producer shall select a laboratory described by Subsection (a) to perform preharvest or postharvest testing of a sample taken from the hemp producer's plot.

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

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

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

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

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

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

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

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

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A hemp producer shall pay the costs of sample collection and testing in the amount prescribed by the laboratory selected by the hemp producer.

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

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

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

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

(e) The department shall recognize and accept the results of a test performed by an institution of higher education or an independent testing laboratory described by Subsection (a). The department shall require that a copy of the test results be sent by the institution of higher education or independent testing laboratory directly to the department and the license holder.

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

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

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

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

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

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

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

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

(d) A hemp producer shall retain control over harvested plants until the hemp producer receives:

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

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

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

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Sec. 122.155. **OPTIONAL** POSTHARVEST TESTING.

(a) The department by rule shall allow a license holder to have a single postharvest test performed on a representative sample of plants from a plot if the results of the preharvest test representing the plot show a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

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

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

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

Sec. 122.157. **FALSE LABORATORY REPORT; CRIMINAL OFFENSE.** (a) A person commits an offense if the person, with the intent to deceive, forges, falsifies, or

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alters the results of a laboratory test required or authorized under this chapter.

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

SUBCHAPTER E. HARVEST AND USE OR DISPOSAL OF PLANTS

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

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

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

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

(b) If the results of a preharvest and, if applicable, postharvest test performed on a sample show a delta-9

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tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis:

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

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

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

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

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

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

or

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

SUBCHAPTER F. HEMP SEED

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

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

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(b) The department or entity may not certify or approve a variety of hemp seed if the seed is tested and confirmed to produce a plant that has delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis. For purposes of this subsection, the department may partner with a private entity or an institution of higher education to test seed for the purpose of certification or approval under this section.

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

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

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

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

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

SUBCHAPTER G. NONCONSUMABLE HEMP PRODUCTS

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

SUBCHAPTER D. HEMP PRODUCTS

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

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the person intends to process or manufacture the product with hemp.

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

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

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:

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that the person intends to manufacture the product as a nonconsumable hemp product.

(b) A state agency may not authorize a person to manufacture a product containing hemp for smoking, as defined by Section 443.001, Health and Safety Code.

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

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Sec. 122.055. SHIPPING CERTIFICATE OR CARGO

MANIFEST. (a) The department shall develop a shipping certificate or cargo manifest which the department shall issue to a license holder in connection with the transportation of a shipment of hemp plant material originating in this state, other than sterilized seeds that are incapable of beginning germination.

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

() The department may coordinate with the Department of Public Safety to determine whether information included on a certificate or manifest issued under Subsection (a), including the unique identifying number, may be made available to law enforcement personnel through the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety. [FA3]

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

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Sec. 122.155. POSSESSION, TRANSPORTATION, AND SALE OF HEMP PRODUCTS. (a) Notwithstanding any other law, a person may possess, transport, sell, and purchase legally produced hemp products in this state.
(b) The department by rule must provide to a retailer of hemp products fair notice of a potential violation concerning hemp products sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.

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

- (1) hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants;
- (2) products containing one or more hemp-derived cannabinoids, such as cannabidiol, intended for ingestion are to be considered foods, not controlled substances or adulterated products;
- (3) hemp products must be packaged and labeled in the manner provided by Section 122.153; and
- (4) the processing or manufacturing of a hemp product 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.

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Sec. 122.302. POSSESSION, TRANSPORTATION, AND SALE. (a) Notwithstanding any other law, a person may possess, transport, sell, and purchase legally produced nonconsumable hemp products in this state.
(b) The department by rule must provide to a retailer of nonconsumable hemp products fair notice of a potential violation concerning hemp products sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.

Sec. 122.303. RETAIL SALE OF OUT-OF-STATE PRODUCTS. A nonconsumable hemp product manufactured outside of this state may be sold at retail in this state unless:
(1) the hemp used to manufacture the product was cultivated illegally; or
(2) the retail sale of the product in this state violates federal law. [FA1]

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<p><u>(b) The department shall maintain a list of states or other jurisdictions described by Subsection (a).</u></p> <p><u>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.</u></p>	<p><u>Sec. 122.304. TRANSPORTATION AND EXPORTATION OUT OF STATE. Nonconsumable 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.</u></p> <p><u>SUBCHAPTER H. TRANSPORTATION REQUIREMENTS</u></p> <p><u>Sec. 122.351. DEFINITION. In this subchapter, "peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.</u></p> <p><u>Sec. 122.352. POLICY. It is the policy of this state to not interfere with the interstate commerce of hemp or the transshipment of hemp through this state.</u></p> <p><u>Sec. 122.353. INTERSTATE TRANSPORTATION. To the extent of a conflict between a provision of this chapter and a provision of federal law involving interstate transportation of hemp, including a United States Department of Agriculture regulation, federal law controls and conflicting provisions of this chapter do not apply.</u></p> <p><u>Sec. 122.354. DEPARTMENT RULES. The department, in consultation with the Department of Public Safety, shall adopt rules regulating the transportation of hemp in this state to ensure that illegal marihuana is not transported into or through this state disguised as legal hemp.</u></p> <p><u>Sec. 122.355. HEMP TRANSPORTATION ACCOUNT.</u></p> <p><u>(a) The hemp transportation account is a dedicated account in the general revenue fund administered by the department. The account consists of:</u></p> <p><u>(1) civil penalties collected under this subchapter; and</u></p>	

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

(b) Money in the account may be appropriated only to the department for the administration and enforcement of this subchapter. The department may transfer money appropriated under this subsection to the Department of Public Safety for the administration and enforcement of that department's powers and duties under this subchapter, unless prohibited by other law.

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

(1) is produced in compliance with:

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

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

(2) is accompanied by:

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

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

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

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

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

Sec. 122.357. AGRICULTURAL PESTS AND DISEASES. A person may not transport in this state hemp that contains

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an agricultural pest or disease as provided by department rule.

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

(1) seize the plant material; or

(2) arrest the person transporting the plant material.

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

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

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

Sec. 122.359. CIVIL PENALTY. (a) A person who violates Section 122.356 is liable to this state for a civil penalty in an amount not to exceed \$500 for each violation.

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

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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.

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

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

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

SUBCHAPTER I. ENFORCEMENT; PENALTIES

Sec. 122.401. 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 other than a civil penalty collected under Subchapter H must be deposited in the state hemp production account under Section 122.003.

Sec. 122.402. ADMINISTRATIVE PENALTY. Except as provided by Section 122.403 and to the extent permitted under 7 U.S.C. Section 1639p(e), 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.

Sec. 122.403. NEGLIGENT VIOLATIONS BY LICENSE HOLDER. (a) If the department determines that a license holder negligently violated this chapter or a rule adopted under this chapter, the department shall enforce the violation in the manner provided by 7 U.S.C. Section 1639p(e).

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

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(c) A license holder who violates this chapter by cultivating plants described by Section 122.202(b)(2):
(1) must comply with an enhanced testing protocol developed by the department;
(2) shall pay a fee in the amount of \$500 for each violation to cover the department's costs of administering the enhanced testing protocol; and
(3) shall be included on a list maintained by the department of license holders with negligent violations, which is public information for purposes of Chapter 552, Government Code.
(d) A person who negligently violates this chapter three times in any five-year period may not cultivate, process, or otherwise produce hemp in this state before the fifth anniversary of the date of the third violation. The department shall include each person subject to this subsection on a list of banned producers, which is public information for purposes of Chapter 552, Government Code.
Sec. 122.404. OTHER VIOLATIONS BY LICENSE HOLDER. If the department suspects or determines that a license holder violated this chapter or a rule adopted under this chapter with a culpable mental state greater than negligence, the department shall immediately report the license holder to:
(1) the United States attorney general; and
(2) the attorney general of this state, who may:
(A) investigate the violation;
(B) institute proceedings for injunctive or other appropriate relief on behalf of the department; or
(C) report the matter to the Department of Public Safety and any other appropriate law enforcement agency.

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No equivalent provision.	SECTION 3. Subchapter A, Chapter 141, Agriculture Code, is amended by adding Section 141.008 to read as follows: <u>Sec. 141.008. HEMP IN COMMERCIAL FEED. The service may adopt rules authorizing, defining, and controlling the use of hemp and hemp products in commercial feed.</u>	
No equivalent provision.	SECTION 4. Subchapter A, Chapter 431, Health and Safety Code, is amended by adding Section 431.011 to read as follows: <u>Sec. 431.011. APPLICABILITY OF CHAPTER TO CONSUMABLE HEMP PRODUCTS AND MANUFACTURERS. (a) This chapter applies to a consumable hemp product subject to Chapter 443. An article regulated under this chapter may not be deemed to be adulterated solely on the basis that the article is a consumable hemp product.</u> <u>(b) Except as provided by Subsection (c), this chapter applies to the conduct of a person who holds a license under Chapter 443.</u> <u>(c) A person who holds a license under Chapter 443 related to the processing of hemp or the manufacturing of a consumable hemp product regulated under that chapter and is engaging in conduct within the scope of that license is not required to hold a license as a food manufacturer or food wholesaler under Subchapter J.</u>	
No equivalent provision.	SECTION 5. Section 431.043, Health and Safety Code, is amended to read as follows:	

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	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, <u>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.</u>	
No equivalent provision.	SECTION 6. Section 431.2211, Health and Safety Code, is amended by adding Subsection (a-3) to read as follows: <u>(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.</u>	
No equivalent provision.	SECTION 7. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 443 to read as follows: <u>CHAPTER 443. MANUFACTURE, DISTRIBUTION, AND SALE OF CONSUMABLE HEMP PRODUCTS</u> <u>SUBCHAPTER A. GENERAL PROVISIONS</u> <u>Sec. 443.001. DEFINITIONS. In this chapter:</u> <u>(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.</u> <u>(2) "Department" means the Department of State Health Services.</u>	

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- (3) "Establishment" means each location where a person processes hemp or manufactures a consumable hemp product.
- (4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
- (5) "Hemp" has the meaning assigned by Section 121.001, Agriculture Code.
- (6) "License" means a consumable hemp product manufacturer's license issued under this chapter.
- (7) "License holder" means an individual or business entity holding a license.
- (8) "Manufacture" has the meaning assigned by Section 431.002.
- (9) "Process" means to extract a component of hemp, including cannabidiol or another cannabinoid, that is:
- (A) sold as a consumable hemp product;
 - (B) offered for sale as a consumable hemp product;
 - (C) incorporated into a consumable hemp product; or
 - (D) intended to be incorporated into a consumable hemp product.
- (10) "QR code" means a quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to additional information.
- (11) "Smoking" means burning or igniting a substance and inhaling the smoke or heating a substance and inhaling the resulting vapor or aerosol.
- Sec. 443.002. APPLICABILITY OF OTHER LAW. Except as provided by Section 431.011(c), Chapter 431 applies to a license holder and a consumable hemp product regulated under this chapter.

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

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

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

SUBCHAPTER B. POWERS AND DUTIES

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

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

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

SUBCHAPTER C. CONSUMABLE HEMP PRODUCT MANUFACTURER LICENSE

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

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

(1) hold a license under this subchapter; or

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

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

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

(1) a legal description of each location where the applicant intends to process hemp or manufacture consumable hemp products and the global positioning system coordinates for the perimeter of each location;

(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is processed or consumable hemp products are manufactured to conduct a physical inspection

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or to ensure compliance with this chapter and rules adopted under this chapter;

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

(4) any other information required by department rule.

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

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

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

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

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

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

SUBCHAPTER D. TESTING OF CONSUMABLE HEMP PRODUCTS

Sec. 443.151. TESTING REQUIRED. (a) A consumable hemp product must be tested as provided by:

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

(2) Subsection (d).

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

(1) the concentration of various cannabinoids; and

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

(c) Before material extracted from hemp by processing is sold as, offered for sale as, or incorporated into a consumable

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hemp product, the material must be tested, as required by the executive commissioner, to determine:

(1) the presence of harmful microorganisms; and

(2) the presence or quantity of:

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

(B) any other substance prescribed by the department.

(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. [FA2(1)]

Sec. 443.152. PROVISIONS RELATED TO TESTING. (a) A consumable hemp product that has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent

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may not be sold at retail or otherwise introduced into commerce in this state.

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

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

SUBCHAPTER E. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

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

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

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

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

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

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

(c) The department and the Department of Public Safety shall establish a process for the random testing of cannabinoid oil, including cannabidiol oil, at various retail and other establishments that sell, offer for sale, distribute, or use the oil to ensure that the oil:

(1) does not contain harmful ingredients;

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

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

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

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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. [FA2(2)]

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

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

(1) contains harmful ingredients;

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

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

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

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

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

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

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

Sec. 443.205. 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 labeled in the manner provided by this section with the following information:

(1) batch identification number;

(2) batch date;

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(3) product name;
(4) a uniform resource locator (URL) that provides or links to a certificate of analysis for the product or each hemp-derived ingredient of the product;
(5) the name of the product's manufacturer; and
(6) a certification that the delta-9 tetrahydrocannabinol concentration of the product or each hemp-derived ingredient of the product is not more than 0.3 percent.
(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 or links to the information required by that subsection; and
(2) a QR code or other bar code that may be scanned and that leads to the information required by that subsection.
(c) The label required by Subsection (a) must appear on each unit of the product intended for individual retail sale. If that unit includes inner and outer packaging, the label may appear on any of that packaging.
(d) This section does not apply to sterilized seeds incapable of beginning germination.
Sec. 443.206. RETAIL SALE OF OUT-OF-STATE CONSUMABLE HEMP PRODUCTS. Retail sales of consumable hemp products processed or manufactured outside of this state may be made in this state when the products were processed or manufactured in another state or jurisdiction in compliance with:
(1) that state or jurisdiction's plan approved by the United States Department of Agriculture under 7 U.S.C. Section 1639p;
(2) a plan established under 7 U.S.C. Section 1639q if that plan applies to the state or jurisdiction; or

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(3) the laws of that state or jurisdiction if the products are tested in accordance with, or in a manner similar to, Section 443.151. [FA2(3)]
Sec. 443.207. TRANSPORTATION AND EXPORTATION OF CONSUMABLE HEMP PRODUCTS OUT OF STATE. Consumable 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.

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

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

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

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

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

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

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<p>(D) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; [ø¶]</p> <p>(E) the sterilized seeds of the plant that are incapable of beginning germination; <u>or</u></p> <p><u>(F) hemp, as that term is defined by Section 121.001, Agriculture Code.</u></p>		
<p>SECTION 6. (a) Not later than the 90th day after the effective date of this Act, the Department of Agriculture shall adopt rules under Section 121.003, Agriculture Code, as added by this Act, and submit for approval a state plan to the secretary of the United States Department of Agriculture as provided by Section 121.005, Agriculture Code, as added by this Act.</p> <p>(b) The Department of Agriculture shall submit amended state plans as provided by Section 121.005(b), Agriculture Code, as added by this Act, as necessary until the plan is approved.</p>	<p>SECTION 9. (a) Not later than the 90th day after the effective date of this Act, the Department of Agriculture shall submit for approval a state plan to the secretary of the United States Department of Agriculture as provided by Section 121.003, Agriculture Code, as added by this Act.</p> <p>(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.</p> <p>(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.</p>	
<p>SECTION 7. (a) Not later than January 1, 2020, the Department of Agriculture shall adopt rules and procedures necessary to implement Chapter 122, Agriculture Code, as added by this Act.</p> <p>(b) Not later than the 30th day after the date on which rules and procedures are adopted under Subsection (a) of this section, the Department of Agriculture shall begin</p>	<p>No equivalent provision.</p>	

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authorizing participation in the state hemp program established under Chapter 122, Agriculture Code, as added by this Act.

No equivalent provision.

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.

No equivalent provision.

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 becomes part of the retailer's inventory before rules under Section 443.051, Health and Safety Code, as added by this Act, become effective unless the product:

- (1) is unsafe for consumption based on the presence or quantity of heavy metals, pesticides, harmful microorganisms, or residual solvents; or
- (2) has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent. [FA2(4)]

No equivalent provision.

SECTION 12. SECTION 12. Notwithstanding Section 443.2025, Health and Safety Code, as added by this Act, a person is not required to register a location to sell a consumable hemp product containing cannabidiol at retail in

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this state before the 60th day after the date the Department of State Health Services begins issuing registrations.
[FA2(4)]

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

SECTION 13. Same as House version.