

House Bill 3703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
<p>SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0015 to read as follows:</p> <p><u>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.</u></p>	No equivalent provision.	
<p>SECTION 2. Section 481.062(a), Health and Safety Code, is amended to read as follows:</p> <p>(a) The following persons may possess a controlled substance under this chapter without registering with the Federal Drug Enforcement Administration:</p> <p>(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;</p> <p>(2) a common or contract carrier, a warehouseman, or an employee of a carrier or warehouseman whose possession of the controlled substance is in the usual course of business or employment;</p> <p>(3) an ultimate user or a person in possession of the controlled substance under a lawful order of a practitioner or in lawful possession of the controlled substance if it is listed in Schedule V;</p> <p>(4) an officer or employee of this state, another state, a political subdivision of this state or another state, or the United States who is lawfully engaged in the enforcement of a law relating to a controlled substance or drug or to a customs</p>	No equivalent provision.	

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law and authorized to possess the controlled substance in the discharge of the person's official duties;

(5) if the substance is tetrahydrocannabinol or one of its derivatives, [:

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

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

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

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-

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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:

No equivalent provision.

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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].

No equivalent provision.

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].

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

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

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

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

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

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

(1) is licensed under this subtitle;

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

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

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<p>(3) is certified:</p> <p>(A) by the American Board of Psychiatry and Neurology in:</p> <p>[(i) epilepsy; or</p> <p>[(ii) neurology or neurology with special qualification in child neurology and is otherwise qualified for the examination for certification in epilepsy]; or</p> <p>(B) in neurophysiology by:</p> <p>(i) the American Board of Psychiatry and Neurology; or</p> <p>(ii) the American Board of Clinical Neurophysiology.</p> <p>Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS.</p> <p>A physician described by Section 169.002 may prescribe low-THC cannabis to a patient [alleviate a patient's seizures] if:</p> <p>(1) the patient is a permanent resident of <u>this</u> [the] state;</p> <p>(2) the physician complies with the registration requirements of Section 169.004; and</p> <p>(3) the physician certifies to the department that:</p> <p>(A) the patient is diagnosed with:</p> <p><u>(i) [intractable] epilepsy;</u></p> <p><u>(ii) multiple sclerosis; or</u></p> <p><u>(iii) spasticity;</u></p> <p> </p> <p>(B) the physician determines the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient; and</p> <p>(C) a second physician <u>licensed in this state</u> [qualified to prescribe low THC cannabis under Section 169.002] has concurred with the determination under Paragraph (B), and the second physician's concurrence is recorded in the patient's</p>	<p>[(3) is certified:</p> <p>[(A) by the American Board of Psychiatry and Neurology in:</p> <p>[(i) epilepsy; or</p> <p>[(ii) neurology or neurology with special qualification in child neurology and is otherwise qualified for the examination for certification in epilepsy; or</p> <p>[(B) in neurophysiology by:</p> <p>[(i) the American Board of Psychiatry and Neurology; or</p> <p>[(ii) the American Board of Clinical Neurophysiology].</p> <p>Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS.</p> <p>A physician described by Section 169.002 may prescribe low-THC cannabis to a patient [alleviate a patient's seizures] if:</p> <p>(1) the patient is a permanent resident of <u>the</u> state;</p> <p>(2) the physician complies with the registration requirements of Section 169.004; and</p> <p>(3) the physician certifies to the department that:</p> <p>(A) the patient is diagnosed with:</p> <p><u>(i) [intractable] epilepsy;</u></p> <p><u>(ii) a seizure disorder;</u></p> <p><u>(iii) multiple sclerosis;</u></p> <p><u>(iv) spasticity;</u></p> <p><u>(v) amyotrophic lateral sclerosis;</u></p> <p><u>(vi) autism;</u></p> <p><u>(vii) terminal cancer; or</u></p> <p><u>(viii) an incurable neurodegenerative disease; and</u></p> <p>(B) the physician determines the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient; and</p> <p>[(C) a second physician qualified to prescribe low THC cannabis under Section 169.002 has concurred with the determination under Paragraph (B), and the second physician's concurrence is recorded in the patient's medical record].</p>	

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medical record.	<p>Sec. 169.004. LOW-THC CANNABIS PRESCRIBER REGISTRATION. (a) Before a physician qualified to prescribe low-THC cannabis under Section 169.002 may prescribe or renew a prescription for low-THC cannabis for a patient under this chapter, the physician must register as the prescriber for that patient in the compassionate-use registry maintained by the department under Section 487.054, Health and Safety Code. The physician's registration must indicate:</p> <ul style="list-style-type: none">(1) the physician's name;(2) the patient's name and date of birth;(3) the dosage prescribed to the patient;(4) the means of administration ordered for the patient; and(5) the total amount of low-THC cannabis required to fill the patient's prescription. <p>(b) The department may not publish the name of a physician registered under this section unless permission is expressly granted by the physician.</p>	
<p>SECTION 8. (a) Subchapter G, Chapter 481, Health and Safety Code, is repealed.</p> <p>(b) Section 169.001(2), Occupations Code, is repealed.</p>	<p>SECTION 3. Section 169.001(2), Occupations Code, is repealed.</p>	
No equivalent provision.	<p>SECTION 4. Not later than December 1, 2019, the executive commissioner of the Health and Human Services Commission, in consultation with the National Institutes of Health, shall adopt rules designating diseases as incurable neurodegenerative diseases for which patients may be prescribed low-THC cannabis for medical use under Chapter 169, Occupations Code, as amended by this Act.</p>	

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

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SECTION 5. 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.

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