

By: Moody

H.B. No. 447

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the cultivation, manufacture, distribution, sale, testing, possession, and use of cannabis and cannabis products; authorizing the imposition of taxes and fees; requiring an occupational license; creating a criminal offense.

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

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 491 to read as follows:

CHAPTER 491. REGULATION AND TAXATION OF CANNABIS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 491.001. SHORT TITLE. This chapter may be cited as the Texas Regulation and Taxation of Cannabis Act.

Sec. 491.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual 21 years of age or older.

(2) "Cannabis" 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 includes cannabis concentrate. The term does not include:

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

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

(C) a compound, manufacture, salt, derivative,

1 mixture, or preparation of the mature stalks, fiber, oil, or cake;
2 or

3 (D) the sterilized seeds of the plant that are
4 incapable of beginning germination.

5 (3) "Cannabis concentrate" means the resin extracted
6 from a part of the plant Cannabis sativa L. or a compound,
7 manufacture, salt, derivative, mixture, or preparation of the
8 resin.

9 (4) "Cannabis establishment" means an entity licensed
10 by the department under this chapter to process and dispense
11 cannabis and cannabis products to an adult.

12 (5) "Cannabis grower" means an entity licensed by the
13 department to cultivate cannabis for sale and distribution to a
14 cannabis establishment.

15 (6) "Cannabis product" means a product that contains
16 cannabis and is intended for use or consumption by humans,
17 including as an edible product or as a topical product, ointment,
18 oil, or tincture. The term includes products that consist of
19 cannabis and other ingredients.

20 (7) "Cannabis secure transporter" means an entity
21 licensed by the department under this chapter to transport cannabis
22 from a cannabis grower to a cannabis establishment.

23 (8) "Cannabis testing facility" means an entity
24 licensed by the department under this chapter to analyze the safety
25 and potency of cannabis and cannabis products.

26 (9) "Commission" means the Texas Commission of
27 Licensing and Regulation.

1 (10) "Cultivate" means to propagate, breed, grow,
2 harvest, dry, cure, or separate parts of the cannabis plant by
3 manual or mechanical means.

4 (11) "Department" means the Texas Department of
5 Licensing and Regulation.

6 (12) "Executive director" means the executive
7 director of the department.

8 (13) "Process" means to separate or otherwise prepare
9 parts of the cannabis plant and to compound, blend, extract,
10 infuse, or otherwise make or prepare cannabis concentrate or
11 cannabis products.

12 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

13 Sec. 491.051. AUTHORIZED CONDUCT: PERSONAL USE OF CANNABIS.

14 (a) An adult is authorized under this chapter to:

15 (1) use, possess, and transport not more than 2.5
16 ounces of cannabis, except that not more than 15 grams of that
17 amount may be in the form of cannabis concentrate;

18 (2) transfer without remuneration to another adult not
19 more than 2.5 ounces of cannabis, except that not more than 15 grams
20 of that amount may be in the form of cannabis concentrate and
21 provided that the transfer is not advertised or promoted to the
22 public;

23 (3) cultivate for personal use not more than 12
24 cannabis plants in an area on the premises of the adult's private
25 residence, provided that the cultivation occurs in an enclosed area
26 that is:

27 (A) equipped with locks or other security devices

1 that restrict access to the area; and

2 (B) not visible from a public place without the
3 use of aircraft or optical aids;

4 (4) possess, store, or process on the premises of the
5 adult's private residence not more than:

6 (A) the amount of cannabis produced from plants
7 cultivated on the premises, provided that:

8 (i) not more than the 12 cannabis plants are
9 possessed, cultivated, or processed on the premises at one time;
10 and

11 (ii) any amount of cannabis in excess of 2.5
12 ounces is stored in a container or area equipped with locks or other
13 security devices that restrict access to the contents of the
14 container or area; and

15 (B) 10 ounces of cannabis that was not produced
16 from plants cultivated on the premises, provided that the amount in
17 excess of 2.5 ounces is stored in a container or area described by
18 Paragraph (A)(ii);

19 (5) use, possess, process, transport, or transfer to
20 another adult without remuneration, an amount of cannabis products
21 specified by rule of the commission as the allowable amount of
22 cannabis for purposes of this subdivision; and

23 (6) use, possess, transport, or transfer to another
24 adult without remuneration, cannabis-related drug paraphernalia.

25 Sec. 491.052. AUTHORIZED CONDUCT: RETAIL CANNABIS
26 OPERATIONS. This chapter authorizes the conduct of:

27 (1) a cannabis grower director, manager, or employee

1 who, acting within the scope of the grower's license:

2 (A) cultivates cannabis or produces cannabis
3 products for sale or transfer to a cannabis establishment; and

4 (B) possesses cannabis or cannabis-related drug
5 paraphernalia;

6 (2) a cannabis establishment director, manager, or
7 employee who, acting within the scope of the establishment's
8 license, possesses cannabis or cannabis products or transfers or
9 sells cannabis, cannabis products, or cannabis-related drug
10 paraphernalia to an adult;

11 (3) a cannabis secure transporter director, manager,
12 or employee who, acting within the scope of the secure
13 transporter's license, transports or transfers cannabis or
14 cannabis products from a cannabis grower to a cannabis
15 establishment; and

16 (4) a cannabis testing facility director, manager, or
17 employee who, acting within the scope of the facility's license,
18 possesses, tests, or transports cannabis, cannabis products, or
19 cannabis-related drug paraphernalia.

20 Sec. 491.053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED
21 CONDUCT. (a) A person is not subject to arrest, prosecution,
22 forfeiture of property, or penalty in any manner or denial of any
23 right or privilege, including any civil penalty or disciplinary
24 action by a court or occupational or professional licensing board
25 or bureau solely due to conduct authorized under Section 491.051 or
26 491.052.

27 (b) The fact that a person engages in conduct authorized by

1 Section 491.051 or 491.052 does not in itself constitute grounds
2 for denying, limiting, or restricting conservatorship or
3 possession of or access to a child under Title 5, Family Code.

4 Sec. 491.054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;
5 EXCEPTION. (a) Except as otherwise provided by Subsection (b), a
6 person may prohibit or restrict the possession, consumption,
7 cultivation, distribution, processing, sale, or display of
8 cannabis or cannabis products on property the person owns,
9 occupies, or manages.

10 (b) A person may not prohibit a residential tenant under a
11 lease agreement from possessing cannabis, cannabis products, or
12 cannabis-related drug paraphernalia or consuming cannabis by means
13 other than smoking on the premises.

14 Sec. 491.055. CONDUCT NOT AUTHORIZED UNDER THIS CHAPTER.
15 This chapter does not authorize the following conduct:

16 (1) operating a motor vehicle while intoxicated or
17 otherwise violating Chapter 49, Penal Code;

18 (2) smoking or otherwise consuming cannabis in:

19 (A) a motor vehicle while the vehicle is on a
20 public road;

21 (B) an aircraft, while the aircraft is in flight
22 or in a public area;

23 (C) a watercraft, while the watercraft is on a
24 public waterway; or

25 (D) a public place, unless:

26 (i) the public place is an area designated
27 by a political subdivision as an area where using cannabis is

1 permissible; and

2 (ii) the area described by Subparagraph (i)
3 is not accessible to persons younger than 21 years of age;

4 (3) possessing or consuming cannabis or cannabis
5 products or possessing cannabis-related drug paraphernalia:

6 (A) on the premises of a public or private child
7 care facility, prekindergarten, or primary or secondary school;

8 (B) on a school bus that serves a facility or
9 school described by Paragraph (A); or

10 (C) on the premises of a correctional facility,
11 as defined by Article 18A.251, Code of Criminal Procedure, or a
12 civil commitment facility; or

13 (4) the separation of resin from the cannabis plant by
14 butane extraction or another method that uses a substance with a
15 flashpoint below 100 degrees Fahrenheit in a public place or motor
16 vehicle or within the curtilage of a residential structure.

17 SUBCHAPTER C. DUTIES OF DEPARTMENT

18 Sec. 491.101. DUTIES OF DEPARTMENT. The department shall
19 administer this chapter.

20 Sec. 491.102. RULES; FEES. (a) The commission shall adopt
21 all necessary rules for the administration and enforcement of this
22 chapter, including rules imposing fees under this chapter in
23 amounts sufficient to cover the cost of administering this chapter.

24 (b) The commission by rule shall set application and license
25 fees under this chapter in amounts sufficient to administer this
26 chapter and may annually adjust the fees for inflation.

27 (c) The department shall deposit a fee collected under this

1 chapter to the credit of the cannabis regulation fund established
2 under Section 491.255.

3 (d) The commission shall adopt rules for the reasonable
4 regulation of cannabis growers and cannabis establishments,
5 including rules that:

6 (1) restrict the use of dangerous pesticides;

7 (2) regulate the packaging and labeling of cannabis
8 products available at a cannabis establishment;

9 (3) restrict advertising and display of cannabis and
10 cannabis products;

11 (4) restrict the maximum amount of
12 tetrahydrocannabinol that may be contained in a cannabis product
13 sold to a consumer;

14 (5) require recordkeeping and monitoring to track the
15 transfer of cannabis and cannabis products between license holders;
16 and

17 (6) require security measures provided that the
18 security measures do not restrict the cultivation of cannabis
19 outdoors or in greenhouses.

20 Sec. 491.103. TESTING, PACKAGING, AND LABELING STANDARDS.

21 (a) The commission by rule shall establish standards for:

22 (1) the operation of cannabis testing facilities;

23 (2) the testing of cannabis and cannabis products; and

24 (3) packaging and labeling requirements for cannabis
25 and cannabis products.

26 (b) In establishing standards for packaging and labeling
27 requirements under Subsection (a)(3), the commission shall require

1 that:

2 (1) cannabis and cannabis products be packaged in
3 opaque, resealable, child-resistant packaging that does not
4 resemble and may not be easily confused with typical packaging for
5 commercially sold candy;

6 (2) cannabis and cannabis products be clearly labeled;
7 and

8 (3) the label for a cannabis product disclose the
9 amount of cannabis contained in that product.

10 Sec. 491.104. SECURE TRANSPORTATION OF CANNABIS. The
11 commission by rule shall establish standards applicable to cannabis
12 secure transporters, including standards to ensure all cannabis
13 establishments are properly served.

14 Sec. 491.105. CONFLICT OF INTEREST. (a) A person who is
15 involved in the implementation, administration, or enforcement of
16 this chapter as a member of the commission, an employee of the
17 department, or a consultant to the commission or the department may
18 not also hold a pecuniary interest in any entity licensed by the
19 department under this chapter.

20 (b) A person who holds a pecuniary interest in a cannabis
21 testing facility or a cannabis secure transporter that holds a
22 license issued under this chapter may not hold a pecuniary interest
23 in any entity that holds a cannabis establishment or cannabis
24 grower license issued under this chapter.

25 (c) A person may not hold a pecuniary interest in more than
26 five entities that are licensed under this chapter as a cannabis
27 grower, except as provided by department rule.

1 Sec. 491.106. ANNUAL REPORT. The executive director shall
2 annually submit to the governor a report providing the following
3 information regarding licensing and regulation under this chapter:

4 (1) the number of licenses issued for each class of
5 license under this chapter;

6 (2) demographic information pertaining to license
7 holders;

8 (3) a description of any fines imposed on a license
9 holder or disciplinary actions taken against a license holder by
10 the department; and

11 (4) a statement of revenues and expenses of the
12 department related to the implementation, administration, and
13 enforcement of this chapter.

14 SUBCHAPTER D. LICENSING

15 Sec. 491.151. LICENSE REQUIRED. A license issued by the
16 department under this chapter is required to operate as a cannabis
17 grower, cannabis establishment, cannabis secure transporter, or
18 cannabis testing facility.

19 Sec. 491.152. QUALIFICATIONS FOR LICENSURE. The commission
20 by rule shall provide for each class of license issued under this
21 chapter qualifications for licensure that are demonstrably related
22 to the operations authorized and duties imposed under that class of
23 license.

24 Sec. 491.153. APPLICATION. (a) A person may apply for an
25 initial or renewal license under this chapter by submitting a form
26 prescribed by the department along with the application fee in an
27 amount set by the commission.

1 (b) The application must indicate the class of license
2 sought and include the name and address of the applicant, the name
3 and address of each of the applicant's directors, managers, and
4 employees, and any other information considered necessary by the
5 department to determine the applicant's eligibility for the
6 license.

7 Sec. 491.154. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE. (a)
8 The department shall issue or renew a license under this chapter
9 only if:

10 (1) the department determines the applicant meets the
11 qualifications for the class of license sought established under
12 Section 491.152; and

13 (2) the applicant is in compliance with any applicable
14 local regulations.

15 (b) If the department denies the issuance or renewal of a
16 license under Subsection (a), the department shall give written
17 notice of the grounds for denial to the applicant.

18 (c) A license issued or renewed under this section expires
19 on the second anniversary of the date of issuance or renewal, as
20 applicable.

21 Sec. 491.155. DUTY TO MAINTAIN QUALIFICATIONS. A license
22 holder shall maintain compliance at all times with the
23 qualifications for the applicable class of license established
24 under Section 491.152.

25 Sec. 491.156. LICENSE SUSPENSION OR REVOCATION. (a) The
26 department may at any time suspend or revoke a license issued under
27 this chapter if the department determines that the license holder

1 has not maintained the qualifications established under Section
2 491.152 or has failed to comply with a duty imposed under this
3 chapter.

4 (b) The department shall give written notice to a license
5 holder of a license suspension or revocation under this section and
6 the grounds for the suspension or revocation. The notice must be
7 sent by certified mail, return receipt requested.

8 (c) After suspending or revoking a license issued under this
9 chapter, the department shall notify the Department of Public
10 Safety. The public safety director of the Department of Public
11 Safety may seize or place under seal all cannabis, cannabis
12 products, and cannabis-related drug paraphernalia owned or
13 possessed by the license holder. If the license is revoked, a
14 disposition may not be made of the seized or sealed cannabis,
15 cannabis products, or drug paraphernalia until the time for
16 administrative appeal of the order has elapsed or until all appeals
17 have been concluded. When a revocation order becomes final, all
18 cannabis, cannabis products, and drug paraphernalia may be
19 forfeited to the state as provided under Subchapter E, Chapter 481.

20 (d) Chapter 2001, Government Code, applies to a proceeding
21 under this section.

22 Sec. 491.157. CRIMINAL RECORD INFORMATION FOR LICENSE
23 APPLICANTS. (a) In addition to satisfying the other requirements
24 provided by commission rule under this chapter, an applicant for a
25 license under this chapter must submit to the department a complete
26 and legible set of fingerprints, on a form prescribed by the
27 commission, for the purpose of obtaining criminal history record

1 information from the Department of Public Safety and the Federal
2 Bureau of Investigation.

3 (b) The department may deny a license to an applicant who
4 does not comply with the requirement of Subsection (a). Issuance of
5 a license by the department is conditioned on the department
6 obtaining the applicant's criminal history record information
7 under this section.

8 (c) A person's conviction for an offense other than an
9 offense under Section 481.122, that involves the delivery or
10 possession of marihuana, as defined under Section 481.002, does not
11 disqualify an applicant for licensure under this chapter.

12 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

13 Sec. 491.201. DUTIES RELATING TO DISPENSING CANNABIS OR
14 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis products
15 to an adult, a cannabis establishment must make reasonable efforts
16 to verify that:

17 (1) the person receiving the cannabis or cannabis
18 product is an adult;

19 (2) the cannabis or cannabis product complies with
20 department testing and labeling rules; and

21 (3) the amount dispensed is not greater than the
22 amount of cannabis or cannabis product allowed for personal use as
23 provided by Section 491.051.

24 Sec. 491.202. DUTIES RELATING TO SECURITY. (a) A license
25 holder shall ensure that the cultivation, processing, sale, or
26 display of cannabis, cannabis products, and cannabis-related drug
27 paraphernalia is not visible from a public place without the use of

1 optical aids or aircraft.

2 (b) A license holder may not cultivate, process, store, or
3 sell cannabis, cannabis products, or cannabis-related drug
4 paraphernalia at a location other than the physical address
5 approved by the department for the establishment under the license
6 issued to the establishment under this chapter.

7 (c) A license holder shall adopt reasonable security
8 measures necessary to restrict access to areas where cannabis or
9 cannabis products are stored and to prevent theft of cannabis and
10 cannabis products.

11 Sec. 491.203. LICENSE HOLDER OPERATIONS. (a) A license
12 holder may not employ or otherwise accept the services of a person
13 younger than 21 years of age.

14 (b) A cannabis establishment may not sell tobacco products,
15 as defined by Section 155.001, Tax Code.

16 Sec. 491.204. MONTHLY SALES REPORT. A cannabis
17 establishment shall monthly submit a report to the comptroller
18 specifying the amount of cannabis sold, the number of cannabis
19 products sold, and the amount of money collected in sales by the
20 establishment during the preceding month.

21 SUBCHAPTER F. TAXES

22 Sec. 491.251. SALES TAX. Cannabis and cannabis products
23 are taxable items subject to the sales tax imposed by Chapter 151,
24 Tax Code.

25 Sec. 491.252. CANNABIS TAX IMPOSED. (a) A tax is imposed
26 on each sale of cannabis or a cannabis product by a cannabis
27 establishment.

1 (b) The rate of the tax is 10 percent of the sales price of
2 the cannabis or cannabis product.

3 (c) The tax imposed by this section is administered,
4 collected, and enforced in the same manner as the tax under Chapter
5 151 is administered, collected, and enforced.

6 (d) The tax imposed by this section is in addition to any
7 other tax imposed by law.

8 Sec. 491.253. ALLOCATION OF CANNABIS TAX. (a) The
9 comptroller shall allocate the net revenue derived from the tax
10 imposed by this subchapter as follows:

11 (1) 10 percent as a local share to municipalities in
12 which cannabis establishments are located, allocated among those
13 municipalities as provided by Subsection (b);

14 (2) 10 percent as a local share to counties in which
15 cannabis establishments are located, allocated among those
16 counties as provided by Subsection (c);

17 (3) one percent to the cannabis testing and quality
18 control fund established under Section 491.254;

19 (4) the amount certified to the comptroller by the
20 commission under Section 491.255 to the fund established under that
21 section; and

22 (5) the remainder to the public school teachers fund
23 established under Section 491.256.

24 (b) In determining the local share for each municipality in
25 which one or more cannabis establishments are located, the
26 comptroller shall allocate funds under Subsection (a)(1) in
27 proportion to the number of cannabis establishments located in each

1 municipality.

2 (c) In determining the local share for each county in which
3 one or more cannabis establishments are located, the comptroller
4 shall allocate funds under Subsection (a)(2) in proportion to the
5 number of cannabis establishments located in each county.

6 Sec. 491.254. CANNABIS TESTING AND QUALITY CONTROL FUND.

7 (a) The cannabis testing and quality control fund is established
8 outside the treasury and is administered by the public safety
9 director of the Department of Public Safety.

10 (b) The public safety director shall use money in the fund
11 available to enable Department of Public Safety crime laboratory
12 facilities to test cannabis and cannabis products on request by the
13 executive director, for the purposes of assisting the department in
14 monitoring compliance with testing and quality control
15 requirements imposed on license holders under this chapter or by
16 commission rules adopted under this chapter.

17 (c) Interest and income from the assets of the trust fund
18 shall be credited to and deposited in the fund.

19 Sec. 491.255. CANNABIS REGULATION FUND. (a) The cannabis
20 regulation fund is established outside the treasury and is
21 administered by the commission.

22 (b) The commission shall make money in the fund available to
23 the department for implementing and administering this chapter.

24 (c) The commission shall monthly certify to the comptroller
25 the amount of money the department expended during the preceding
26 month in the implementation and administration of this chapter.

27 (d) Interest and income from the assets of the trust fund

1 shall be credited to and deposited in the fund.

2 Sec. 491.256. PUBLIC SCHOOL TEACHERS FUND. (a) The public
3 school teachers fund is established outside the treasury and is
4 administered by the comptroller. The comptroller shall deposit:

5 (1) half of all money allocated to the fund in a
6 teacher retirement support account in the fund; and

7 (2) the remainder in a teacher salary support account
8 in the fund.

9 (b) Each month the comptroller shall transfer the balance of
10 the teacher retirement support account to the state contribution
11 account of the teacher retirement system trust fund. Money
12 transferred to the state contribution account under this section
13 may not be considered in computing the amount owed by the state
14 under Section 825.404(a), Government Code, and is not considered a
15 state contribution for purposes of that section.

16 (c) Each month the comptroller shall transfer the balance of
17 the teacher salary support account to the commissioner of
18 education. Notwithstanding any other law, money transferred to the
19 commissioner of education under this section may be used only to
20 provide additional state aid under the Foundation School Program to
21 public schools to pay for teacher salary increases. The
22 commissioner of education may adopt rules as necessary to implement
23 this subsection.

24 SUBCHAPTER G. LOCAL REGULATION

25 Sec. 491.301. PROHIBITED LOCAL REGULATION. A political
26 subdivision of this state may not enact, adopt, or enforce a rule,
27 ordinance, order, resolution, or other regulation that prohibits or

1 unreasonably restricts the cultivation, production, processing,
2 dispensing, transportation, or possession of cannabis or cannabis
3 products or the operation of a cannabis grower, cannabis
4 establishment, cannabis secure transporter, or cannabis testing
5 facility as authorized by this chapter.

6 Sec. 491.302. PERMISSIBLE LOCAL REGULATION. A political
7 subdivision may adopt regulations consistent with this chapter
8 governing the hours of operation, location, manner of conducting
9 business, and number of cannabis growers, cannabis establishments,
10 or cannabis testing facilities.

11 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS

12 PRODUCT TO MINORS PROHIBITED

13 Sec. 491.351. DEFINITION. In this subchapter, "minor"
14 means a person younger than 21 years of age.

15 Sec. 491.352. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS
16 PRODUCT TO MINORS PROHIBITED; PROOF OF AGE REQUIRED. (a) A person
17 commits an offense if the person, under the authority of this
18 chapter:

19 (1) sells, gives, or causes to be sold or given
20 cannabis or cannabis products to a minor; or

21 (2) sells, gives, or causes to be sold or given
22 cannabis or cannabis products to another person who intends to
23 deliver the cannabis or cannabis products to a minor.

24 (b) If an offense under this section occurs in connection
25 with a sale by an employee of the owner of a cannabis establishment,
26 the employee is criminally responsible for the offense and is
27 subject to prosecution.

1 (c) An offense under this section is a Class C misdemeanor.

2 (d) It is a defense to prosecution under Subsection (a)(1)
3 that the person to whom the cannabis or cannabis products were sold
4 or given presented to the defendant apparently valid proof of
5 identification.

6 (e) A proof of identification satisfies the requirements of
7 Subsection (d) if it contains a physical description and photograph
8 consistent with the person's appearance, purports to establish that
9 the person is 21 years of age or older, and was issued by a
10 governmental agency. The proof of identification may include a
11 driver's license issued by this state or another state, a passport,
12 or an identification card issued by a state or the federal
13 government.

14 SECTION 2. Section 481.062, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 481.062. EXEMPTIONS. (a) The following persons are
17 not required to register and may possess a controlled substance
18 under this chapter [~~without registering with the Federal Drug~~
19 ~~Enforcement Administration~~]:

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

24 (2) a common or contract carrier, a warehouseman, or
25 an employee of a carrier or warehouseman whose possession of the
26 controlled substance is in the usual course of business or
27 employment;

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

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

11 (5) if the substance is tetrahydrocannabinol or one of
12 its derivatives:

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

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

21 (6) a dispensing organization licensed under Chapter
22 [487](#) that possesses low-THC cannabis;

23 (7) a cannabis grower, cannabis establishment,
24 cannabis secure transporter, or cannabis testing facility licensed
25 under Chapter 491 that possesses cannabis or cannabis products; or

26 (8) a person who possesses cannabis or cannabis
27 products in accordance with Chapter 491.

1 (b) In this section, "cannabis" and "cannabis product" have
2 the meanings assigned to those terms by Section 491.001.

3 SECTION 3. Section 481.111, Health and Safety Code, is
4 amended by adding Subsections (g) and (h) to read as follows:

5 (g) Sections 481.120, 481.121, and 481.125 do not apply to a
6 person who engages in the acquisition, possession, production,
7 processing, cultivation, delivery, transportation, or disposal of
8 a raw material used in or by-product created by the production or
9 cultivation of cannabis or cannabis products if the conduct is
10 expressly authorized by Subchapter B, Chapter 491.

11 (h) For purposes of Subsection (g), "cannabis" and
12 "cannabis product" have the meanings assigned to those terms by
13 Section 491.001.

14 SECTION 4. (a) Not later than July 1, 2022, the Texas
15 Commission of Licensing and Regulation shall adopt rules as
16 required to implement, administer, and enforce Chapter 491, Health
17 and Safety Code, as added by this Act.

18 (b) Not later than November 1, 2022, the Texas Department of
19 Licensing and Regulation shall begin licensing cannabis growers,
20 cannabis establishments, cannabis secure transporters, and
21 cannabis testing facilities in accordance with Chapter 491, Health
22 and Safety Code, as added by this Act, provided that the applicants
23 for a license have met all requirements for approval under Chapter
24 491, Health and Safety Code, as added by this Act.

25 SECTION 5. This Act takes effect September 1, 2021.