

By: Dominguez

H.B. No. 1109

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of medical cannabis by veterans for
3 post-traumatic stress disorder and the licensing of associated
4 cultivating or dispensing organizations; authorizing fees.

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

6 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is
7 amended by adding Chapter 487A to read as follows:

8 CHAPTER 487A. MEDICAL CANNABIS FOR CERTAIN VETERANS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 487A.001. DEFINITIONS. In this chapter:

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

13 (2) "Cultivating or dispensing facility" means a
14 facility that:

15 (A) cultivates, processes, manufactures, or
16 dispenses medical cannabis under this chapter; and

17 (B) is owned or operated by a cultivating or
18 dispensing organization licensed under Subchapter C.

19 (3) "Cultivating or dispensing organization" means an
20 organization that cultivates, processes, manufactures, or
21 dispenses medical cannabis under this chapter.

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

24 (5) "Historically underutilized business" has the

1 meaning assigned by Section 2161.001, Government Code.

2 (6) "Medical cannabis" means the plant Cannabis sativa
3 L. and any part of that plant or any compound, manufacture, salt,
4 derivative, mixture, preparation, resin, or oil of that plant.

5 (7) "Post-traumatic stress disorder" means a disorder
6 that:

7 (A) meets the diagnostic criteria for
8 posttraumatic stress disorder specified by the American
9 Psychiatric Association in the Diagnostic and Statistical Manual of
10 Mental Disorders, fifth edition, or a later edition adopted by the
11 executive commissioner; and

12 (B) results in an impairment of a person's
13 functioning in the person's community, employment, family, school,
14 or social group.

15 (8) "Psychoactive medication" means a medication that
16 is prescribed for the treatment of symptoms of psychosis or other
17 severe mental or emotional disorders and that is used to exercise an
18 effect on the central nervous system to influence and modify
19 behavior, cognition, or affective state when treating the symptoms
20 of mental illness. The term includes the following categories when
21 used as described by this subdivision:

22 (A) antipsychotics or neuroleptics;

23 (B) antidepressants;

24 (C) agents for control of mania or depression;

25 (D) antianxiety agents;

26 (E) sedatives, hypnotics, or other

27 sleep-promoting drugs; and

1 (F) psychomotor stimulants.

2 (9) "Veteran" means an individual who has served in:

3 (A) the army, navy, air force, coast guard, or
4 marine corps of the United States;

5 (B) the state military forces, as defined by
6 Section 431.001, Government Code; or

7 (C) a reserve component of the armed forces of
8 the United States.

9 Sec. 487A.002. ADMINISTRATION BY COMMISSION; RULES. (a)
10 The commission shall administer this chapter.

11 (b) The executive commissioner shall adopt any rules
12 necessary for the administration and enforcement of this chapter.

13 SUBCHAPTER B. PURCHASE OF MEDICAL CANNABIS

14 Sec. 487A.051. ELIGIBILITY; PURCHASER PERMIT REQUIRED. A
15 veteran suffering from post-traumatic stress disorder is eligible
16 to purchase medical cannabis from a cultivating or dispensing
17 facility if the veteran is issued a purchaser permit under this
18 subchapter.

19 Sec. 487A.052. APPLICATION. A veteran may apply to the
20 commission for a purchaser permit by submitting a completed
21 application form as prescribed by the commission and:

22 (1) proof of the veteran's military service; and

23 (2) proof of the veteran's post-traumatic stress
24 disorder, including:

25 (A) a written diagnosis from a physician;

26 (B) the veteran's current prescription for a
27 psychoactive medication; or

1 (C) any other proof acceptable to the commission
2 as provided by rule of the executive commissioner.

3 Sec. 487A.053. ISSUANCE OF PERMIT. The commission shall
4 issue a purchaser permit to a veteran who submits an application
5 under Section 487A.052 if the commission determines that the
6 veteran is eligible for the permit.

7 SUBCHAPTER C. CULTIVATING OR DISPENSING ORGANIZATION

8 Sec. 487A.101. LICENSE REQUIRED. A cultivating or
9 dispensing organization may not cultivate, process, or dispense
10 medical cannabis for purposes of this chapter without a license
11 issued under this subchapter.

12 Sec. 487A.102. ELIGIBILITY FOR LICENSE. To qualify for a
13 license under this subchapter, a cultivating or dispensing
14 organization must:

15 (1) for the purposes of research described by Section
16 487A.103, have entered into a partnership with:

17 (A) a health system that owns or operates a
18 health care facility with at least 200 beds;

19 (B) a public university in this state; or

20 (C) a registered clinical research organization;

21 (2) have sufficient net cash assets to ensure
22 financial stability and continued operations;

23 (3) have sufficient documented experience in the
24 cultivation, extraction, manufacturing, or dispensing of cannabis
25 in a jurisdiction in which cannabis is legal; and

26 (4) demonstrate experience in extraction and
27 refinement of medical cannabis to create products in tightly

1 controlled ratios of tetrahydrocannabinol and cannabidiol.

2 Sec. 487A.103. MEDICAL CANNABIS RESEARCH. (a) To maintain
3 eligibility for a license under this subchapter, a cultivating or
4 dispensing organization in conjunction with the other entity in a
5 partnership described by Section 487A.102(1) shall conduct
6 research on a continual basis to determine the potential risks and
7 benefits of medical cannabis as a treatment for post-traumatic
8 stress disorder.

9 (b) A cultivating or dispensing organization shall use the
10 research conducted under Subsection (a) to provide the optimal
11 ratios of tetrahydrocannabinol and cannabidiol for the treatment of
12 post-traumatic stress disorder.

13 (c) The cultivating or dispensing organization shall make
14 the findings, conclusions, data, and methodology of the research
15 conducted under Subsection (a) available for peer review.

16 Sec. 487A.104. LICENSE APPLICATION. (a) An eligible
17 cultivating or dispensing organization may apply for a license
18 under this subchapter by submitting an application, in the form
19 provided by the commission, along with the application fee
20 prescribed by Section 487A.111.

21 (b) The application must:

22 (1) contain:

23 (A) the name and address of the applicant; and

24 (B) the name and address of each member of the
25 applicant's governing authority, as defined by Section 1.002,
26 Business Organizations Code;

27 (2) include a plan to hire a workforce for its

1 cultivating or dispensing facilities that, to the extent possible,
2 is composed of at least 33 percent veterans;

3 (3) include a plan to use technology and processes to
4 minimize water and electricity uses by the applicant's cannabis
5 cultivating and processing facilities while maintaining the
6 production of high quality medical cannabis;

7 (4) contain a detailed explanation of the applicant's
8 capability to cultivate and manufacture a sufficient amount of
9 quality-controlled medical cannabis to support the qualifying
10 veteran base in this state; and

11 (5) contain any other information considered
12 necessary by the commission to determine the applicant's
13 eligibility for the license.

14 Sec. 487A.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An
15 applicant for the issuance or renewal of a license under this
16 subchapter shall provide to the Department of Public Safety the
17 applicant's name and the name of:

18 (1) each person who has a 20 percent equity interest in
19 the applicant; and

20 (2) each employee or prospective employee of each of
21 the applicant's cultivating or dispensing facilities.

22 (b) The Department of Public Safety shall conduct a criminal
23 history background check on each individual whose name is provided
24 to the department under Subsection (a). The public safety director
25 of the Department of Public Safety by rule shall:

26 (1) require each individual whose name is provided to
27 the department under Subsection (a) to submit a complete set of

1 fingerprints to the department on a form prescribed by the
2 department for purposes of a criminal history background check
3 under this section; and

4 (2) establish criteria for determining whether an
5 individual passes the criminal history background check for the
6 purposes of this section.

7 (c) After conducting a criminal history background check
8 under this section, the Department of Public Safety shall notify
9 the commission and the applicant organization or relevant facility
10 of the organization and the individual who is the subject of the
11 criminal history background check as to whether the individual
12 passed the criminal history background check.

13 Sec. 487A.106. APPROVAL OR DENIAL OF APPLICATION. (a) The
14 commission shall approve the application and issue to the applicant
15 a license under this subchapter if the commission determines that:

16 (1) the applicant meets the eligibility requirements
17 of Section 487A.102;

18 (2) the applicant satisfies any additional criteria
19 determined by the commission to be necessary to implement this
20 chapter; and

21 (3) issuance of the license is necessary to ensure
22 reasonable statewide access to, and the availability of, medical
23 cannabis for qualifying veterans under Subchapter B.

24 (b) The commission shall approve or deny the application not
25 later than the 120th day after the date of the filing of a completed
26 application with payment of the required fees under Section
27 487A.111.

1 (c) If the commission denies the application, the
2 commission shall notify the applicant.

3 (d) An applicant whose application is denied is entitled to
4 a hearing. Chapter 2001, Government Code, applies to a hearing
5 under this section.

6 Sec. 487A.107. ORGANIZATION PREFERENCES. The commission
7 shall give preference to historically underutilized businesses in
8 the issuance or renewal of licenses under this subchapter.

9 Sec. 487A.108. COMMENCEMENT OF OPERATIONS ON APPROVAL OF
10 APPLICATION. If an organization's application is approved, a
11 cultivating or dispensing facility owned or operated by the
12 organization shall commence operations in this state not later than
13 the 270th day after the date of the approval.

14 Sec. 487A.109. DUTY TO MAINTAIN ELIGIBILITY. Each license
15 holder under this subchapter must maintain compliance at all times
16 with the eligibility requirements of Section 487A.102 and continue
17 to perform the research required under Section 487A.103.

18 Sec. 487A.110. TERM OF LICENSE; RENEWAL. (a) A license
19 issued or renewed under this subchapter expires on the second
20 anniversary of the date of issuance or renewal, as applicable.

21 (b) A license holder may apply for renewal of a license as
22 prescribed by rule of the executive commissioner.

23 Sec. 487A.111. FEES. The executive commissioner by rule
24 shall set application and licensing fees under this subchapter in
25 amounts sufficient to cover the cost of administering and enforcing
26 this chapter.

27 Sec. 487A.112. LICENSE SUSPENSION OR REVOCATION. (a) The

1 commission may at any time suspend or revoke a license issued under
2 this subchapter if the commission determines that:

3 (1) the license holder has not maintained the
4 eligibility requirements described by Section 487A.102 or
5 continued to perform research as required by Section 487A.103;

6 (2) the license holder has failed to comply with this
7 chapter or a rule adopted under this chapter; or

8 (3) the license holder's cultivating or dispensing
9 facility has failed to comply with this chapter or a rule adopted
10 under this chapter.

11 (b) The commission shall give written notice to the license
12 holder of a license suspension or revocation under this section and
13 the grounds for the suspension or revocation. The notice must be
14 sent by certified mail, return receipt requested.

15 (c) An applicant whose license is suspended or revoked is
16 entitled to a hearing. Chapter 2001, Government Code, applies to a
17 hearing under this section.

18 (d) After suspending or revoking a license issued under this
19 subchapter, the commission shall notify the public safety director
20 of the Department of Public Safety. The director may seize or place
21 under seal all medical cannabis and drug paraphernalia owned or
22 possessed by the license holder. If the commission orders the
23 revocation of the license, a disposition may not be made of the
24 seized or sealed medical cannabis or drug paraphernalia until the
25 time for administrative appeal of the order has elapsed or until all
26 appeals have been concluded. When a revocation order becomes
27 final, all medical cannabis and drug paraphernalia may be forfeited

1 to the state as provided under Subchapter E, Chapter 481.

2 SUBCHAPTER D. CULTIVATING AND MANUFACTURING PRACTICES

3 Sec. 487A.151. POTENCY. Each medical cannabis product of a
4 cultivating or dispensing facility must consistently test within
5 five percent of the stated amount of tetrahydrocannabinol and
6 cannabidiol on the label of the product.

7 Sec. 487A.152. SAFETY TESTING. (a) Medical cannabis
8 products of a cultivating or dispensing facility must be tested for
9 harmful substances, including microbials, pesticides, and residual
10 solvents.

11 (b) The executive commissioner shall consult with the
12 Department of Agriculture in adopting rules setting safety
13 standards for medical cannabis made available through a dispensary
14 under this chapter.

15 Sec. 487A.153. GOOD MANUFACTURING PRACTICES. Medical
16 cannabis to be dispensed under this chapter must be produced using
17 good manufacturing practices, as defined by executive commissioner
18 rule.

19 SUBCHAPTER E. DISPENSING REGULATIONS

20 Sec. 487A.201. FORM OF CANNABIS. (a) Medical cannabis may
21 be dispensed to veterans with a purchaser permit under Subchapter B
22 only as a pill, patch, oil, or other derivative form that may be
23 produced with consistent concentrations of tetrahydrocannabinol
24 and cannabidiol.

25 (b) Edible cannabis products may not be in shapes or forms
26 appealing to children.

27 Sec. 487A.202. LABELING. Each product containing medical

1 cannabis dispensed under this chapter must bear a label that
2 clearly states the concentrations of tetrahydrocannabinol and
3 cannabidiol in the product.

4 SUBCHAPTER F. REQUIREMENTS FOR LICENSE HOLDERS AND FACILITIES

5 Sec. 487A.251. CHARITABLE DONATIONS. A license holder must
6 annually donate at least five percent of the license holder's net
7 profit to a nonprofit organization that focuses on getting veterans
8 access to treatment for post-traumatic stress disorder.

9 Sec. 487A.252. LOCATION. A cultivating or dispensing
10 facility owned or operated by a license holder may not be located
11 within 1,000 feet of a primary or secondary school or day-care
12 center that exists on the date of the license holder's initial
13 application for licensure under Subchapter C.

14 SECTION 2. Section [122.103\(c\)](#), Agriculture Code, is amended
15 to read as follows:

16 (c) A qualified applicant who along with the application
17 submits proof to the department that the applicant holds a license
18 under Chapter [487](#) or [487A](#), Health and Safety Code, is not required
19 to pay an application fee, and the department shall issue the
20 license to the applicant within the time prescribed by Subsection
21 (b).

22 SECTION 3. Section [411.0891\(a\)](#), Government Code, is amended
23 to read as follows:

24 (a) Subject to Section [411.087](#), the department is
25 authorized to obtain and use criminal history record information
26 maintained by the Federal Bureau of Investigation or the department
27 that relates to a person who:

1 (1) is an applicant for or holds a registration issued
2 by the director under Subchapter C, Chapter 481, Health and Safety
3 Code, that authorizes the person to manufacture, distribute,
4 analyze, or conduct research with a controlled substance;

5 (2) is an applicant for or holds a registration issued
6 by the department under Chapter 487 or 487A, Health and Safety Code,
7 to be a director, manager, or employee of a dispensing
8 organization, as defined by Section 487.001, Health and Safety
9 Code, or a cultivating or dispensing organization, as defined by
10 Section 487A.001, Health and Safety Code;

11 (3) is an applicant for or holds an authorization
12 issued by the department under Section 521.2476, Transportation
13 Code, to do business in this state as a vendor of ignition interlock
14 devices;

15 (4) is an applicant for or holds certification by the
16 department as an inspection station or an inspector under
17 Subchapter G, Chapter 548, Transportation Code, holds an inspection
18 station or inspector certificate issued under that subchapter, or
19 is the owner of an inspection station operating under that chapter;
20 or

21 (5) is an applicant for or holds a certificate of
22 registration issued by the department under Chapter 1956,
23 Occupations Code, to act as a metal recycling entity.

24 SECTION 4. Section 411.502, Government Code, is amended to
25 read as follows:

26 Sec. 411.502. APPLICABILITY. This subchapter applies to a
27 program, and persons regulated under the program, administered by

1 the department under the following laws, including rules adopted
2 under those laws:

- 3 (1) Section [411.0625](#);
- 4 (2) Chapter [487](#), Health and Safety Code;
- 5 (3) Chapter 487A, Health and Safety Code;
- 6 (4) Chapter [1702](#), Occupations Code;
- 7 (5) [~~4~~] Chapter [1956](#), Occupations Code;
- 8 (6) [~~5~~] Section [521.2476](#), Transportation Code; and
- 9 (7) [~~6~~] Subchapter [G](#), Chapter [548](#), Transportation
10 Code.

11 SECTION 5. Section [443.202\(a\)](#), Health and Safety Code, is
12 amended to read as follows:

13 (a) This section does not apply to low-THC cannabis
14 regulated under Chapter [487](#) or medical cannabis regulated under
15 Chapter 487A.

16 SECTION 6. Section [443.2025\(a\)](#), Health and Safety Code, is
17 amended to read as follows:

18 (a) This section does not apply to low-THC cannabis
19 regulated under Chapter [487](#) or medical cannabis regulated under
20 Chapter 487A.

21 SECTION 7. Section [481.062\(a\)](#), Health and Safety Code, is
22 amended to read as follows:

23 (a) The following persons may possess a controlled
24 substance under this chapter without registering with the federal
25 [~~Federal~~] Drug Enforcement Administration:

26 (1) an agent or employee of a manufacturer,
27 distributor, analyzer, or dispenser of the controlled substance who

1 is registered with the federal [~~Federal~~] Drug Enforcement
2 Administration and acting in the usual course of business or
3 employment;

4 (2) a common or contract carrier, a warehouseman, or
5 an employee of a carrier or warehouseman whose possession of the
6 controlled substance is in the usual course of business or
7 employment;

8 (3) an ultimate user or a person in possession of the
9 controlled substance under a lawful order of a practitioner or in
10 lawful possession of the controlled substance if it is listed in
11 Schedule V;

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

18 (5) if the substance is tetrahydrocannabinol or one of
19 its derivatives:

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

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

1 (6) a dispensing organization licensed under Chapter
2 487 that possesses low-THC cannabis;

3 (7) a cultivating or dispensing organization licensed
4 under Subchapter C, Chapter 487A, that possesses medical cannabis;
5 or

6 (8) an entity described by Section 487A.102(1) in
7 partnership with a cultivating or dispensing organization licensed
8 under Subchapter C, Chapter 487A, that possesses medical cannabis
9 for the purpose of research conducted under Section 487A.103.

10 SECTION 8. Sections 481.111(e) and (f), Health and Safety
11 Code, are amended to read as follows:

12 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not
13 apply to a person who engages in the acquisition, possession,
14 production, cultivation, delivery, or disposal of a raw material
15 used in or by-product created by the production or cultivation of
16 low-THC cannabis or medical cannabis if the person:

17 (1) for an offense involving possession only of
18 marihuana or drug paraphernalia, is a patient for whom low-THC
19 cannabis is prescribed under Chapter 169, Occupations Code, or the
20 patient's legal guardian, and the person possesses low-THC cannabis
21 obtained under a valid prescription from a dispensing organization;
22 [~~or~~]

23 (2) is a director, manager, or employee of a low-THC
24 cannabis dispensing organization and the person, solely in
25 performing the person's regular duties at the organization,
26 acquires, possesses, produces, cultivates, dispenses, or disposes
27 of:

1 (A) in reasonable quantities, any low-THC
2 cannabis or raw materials used in or by-products created by the
3 production or cultivation of low-THC cannabis; or

4 (B) any drug paraphernalia used in the
5 acquisition, possession, production, cultivation, delivery, or
6 disposal of low-THC cannabis;

7 (3) for an offense involving possession only of
8 marihuana or drug paraphernalia, is a patient who holds a purchaser
9 permit under Subchapter B, Chapter 487A;

10 (4) is a member of the governing authority, as defined
11 by Section 1.002, Business Organizations Code, or a manager or
12 employee of a medical cannabis cultivating or dispensing
13 organization or facility and the person, solely in performing the
14 person's duties at the organization or facility, acquires,
15 possesses, produces, cultivates, delivers, or disposes of:

16 (A) in reasonable quantities, any medical
17 cannabis or raw materials used in or by-products created by the
18 production or cultivation of medical cannabis; or

19 (B) any drug paraphernalia used in the
20 acquisition, possession, production, cultivation, delivery, or
21 disposal of medical cannabis; or

22 (5) is a person associated with an entity described by
23 Section 487A.102(1) in partnership with a medical cannabis
24 cultivating or dispensing organization and solely in the
25 performance of the person's duties performing research under
26 Section 487A.103, the person acquires, possesses, produces,
27 cultivates, delivers, or disposes of:

1 (A) in reasonable quantities, any medical
2 cannabis or raw materials used in or by-products created by the
3 production or cultivation of medical cannabis; or

4 (B) any drug paraphernalia used in the
5 acquisition, possession, production, cultivation, delivery, or
6 disposal of medical cannabis.

7 (f) For purposes of Subsection (e):

8 (1) [~~"Dispensing organization" has the meaning~~
9 ~~assigned by Section 487.001.~~

10 [~~(2)~~] "Low-THC cannabis" has the meaning assigned by
11 Section 169.001, Occupations Code.

12 (2) "Low-THC cannabis dispensing organization" means
13 a dispensing organization as defined by Section 487.001.

14 (3) "Medical cannabis" has the meaning assigned by
15 Section 487A.001.

16 (4) "Medical cannabis cultivating or dispensing
17 organization" means an organization licensed under Subchapter C,
18 Chapter 487A.

19 SECTION 9. Section 551.004, Occupations Code, is amended by
20 amending Subsection (a) and adding Subsection (a-1) to read as
21 follows:

22 (a) This subtitle does not apply to:

23 (1) a practitioner licensed by the appropriate state
24 board who supplies a patient of the practitioner with a drug in a
25 manner authorized by state or federal law and who does not operate a
26 pharmacy for the retailing of prescription drugs;

27 (2) a member of the faculty of a college of pharmacy

1 recognized by the board who is a pharmacist and who performs the
2 pharmacist's services only for the benefit of the college;

3 (3) a person who procures prescription drugs for
4 lawful research, teaching, or testing and not for resale;

5 (4) a home and community support services agency that
6 possesses a dangerous drug as authorized by Section 142.0061,
7 142.0062, or 142.0063, Health and Safety Code; ~~[or]~~

8 (5) a low-THC cannabis dispensing organization~~[, as~~
9 ~~defined by Section 487.001, Health and Safety Code,~~ that
10 cultivates, processes, and dispenses low-THC cannabis, as
11 authorized by a license issued under Subchapter C, Chapter 487,
12 Health and Safety Code, to a patient listed in the
13 compassionate-use registry established under that chapter; or

14 (6) a medical cannabis cultivating or dispensing
15 organization that cultivates, manufactures, or dispenses medical
16 cannabis, as authorized by a license issued under Subchapter C,
17 Chapter 487A, Health and Safety Code, to a patient who holds a
18 purchaser permit under Subchapter B of that chapter.

19 (a-1) For purposes of Subsections (a)(5) and (6):

20 (1) "Low-THC cannabis dispensing organization" means
21 a dispensing organization as defined by Section 487.001, Health and
22 Safety Code.

23 (2) "Medical cannabis cultivating or dispensing
24 organization" means an organization licensed under Subchapter C,
25 Chapter 487A, Health and Safety Code.

26 SECTION 10. Not later than July 1, 2022, the executive
27 commissioner of the Health and Human Services Commission shall

1 adopt all rules necessary to administer Chapter 487A, Health and
2 Safety Code, as added by this Act, and provide copies of
3 applications for prospective cultivating or dispensing
4 organization licensees.

5 SECTION 11. After September 1, 2022, but not later than
6 January 1, 2023, the Health and Human Services Commission shall
7 begin accepting applications under Chapter 487A, Health and Safety
8 Code, as added by this Act.

9 SECTION 12. This Act takes effect September 1, 2021.