

By: González of Dallas

H.B. No. 3248

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of the cultivation, manufacture,
3 processing, distribution, sale, testing, transportation, delivery,
4 transfer, possession, use, and taxation of cannabis and cannabis
5 products and local regulation of cannabis establishments;
6 authorizing the imposition of fees; requiring an occupational
7 license; creating a criminal offense; imposing a tax.

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

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

11 CHAPTER 491. REGULATION OF CANNABIS

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 491.0001. DEFINITIONS. In this chapter:

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

16 (2) "Cannabis" means the plant Cannabis sativa L.,
17 whether growing or not, the seeds of that plant, and every compound,
18 manufacture, salt, derivative, mixture, or preparation of that
19 plant or its seeds. The term includes cannabis concentrate. The
20 term does not include:

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

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

24 (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-related drug paraphernalia" means
21 equipment, a product, or material that is used or intended for use
22 in:

23 (A) planting, propagating, cultivating, growing,
24 harvesting, manufacturing, compounding, converting, producing,
25 processing, preparing, testing, analyzing, packaging, repackaging,
26 storing, or containing cannabis or a cannabis product; or

27 (B) introducing cannabis or a cannabis product

1 into the human body.

2 (8) "Cannabis secure transporter" means an entity
3 licensed by the department under this chapter to transport cannabis
4 from a cannabis grower to a cannabis establishment.

5 (9) "Cannabis testing facility" means an entity
6 licensed by the department under this chapter to analyze the safety
7 and potency of cannabis and cannabis products.

8 (10) "Commission" means the Texas Commission of
9 Licensing and Regulation.

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

13 (12) "Department" means the Texas Department of
14 Licensing and Regulation.

15 (13) "Executive director" means the executive
16 director of the department.

17 (14) "Marihuana" has the meaning assigned by Section
18 [481.002](#).

19 (15) "Process" means to separate or otherwise prepare
20 parts of the cannabis plant and to compound, blend, extract,
21 infuse, or otherwise make or prepare cannabis concentrate or
22 cannabis products.

23 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

24 Sec. 491.0051. AUTHORIZED CONDUCT: PERSONAL USE OF
25 CANNABIS. An adult is authorized under this chapter to:

26 (1) use, possess, and transport not more than 2.5
27 ounces of cannabis, except that not more than 15 grams of that

1 amount may be in the form of cannabis concentrate;

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

7 (3) possess, store, or process on the premises of the
8 adult's private residence not more than 10 ounces of cannabis,
9 provided that the amount in excess of 2.5 ounces is stored in a
10 container or area equipped with locks or other security devices
11 that restrict access to the container or area;

12 (4) use, possess, process, transport, or transfer to
13 another adult without remuneration an amount of cannabis products
14 specified by rule of the commission as the allowable amount of
15 cannabis for purposes of this subdivision; and

16 (5) use, possess, transport, or transfer to another
17 adult without remuneration cannabis-related drug paraphernalia.

18 Sec. 491.0052. AUTHORIZED CONDUCT: RETAIL CANNABIS
19 OPERATIONS. This chapter authorizes the conduct of:

20 (1) a cannabis grower director, manager, or employee
21 who, acting within the scope of the grower's license:

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

24 (B) possesses cannabis or cannabis-related drug
25 paraphernalia;

26 (2) a cannabis establishment director, manager, or
27 employee who, acting within the scope of the establishment's

1 license, possesses cannabis or cannabis products or transfers or
2 sells cannabis, cannabis products, or cannabis-related drug
3 paraphernalia to an adult;

4 (3) a cannabis secure transporter director, manager,
5 or employee who, acting within the scope of the secure
6 transporter's license, transports, transfers, or delivers cannabis
7 or cannabis products from a cannabis grower to a cannabis
8 establishment; and

9 (4) a cannabis testing facility director, manager, or
10 employee who, acting within the scope of the facility's license,
11 possesses or tests cannabis, cannabis products, or
12 cannabis-related drug paraphernalia.

13 Sec. 491.0053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED
14 CONDUCT. (a) A person is not subject to arrest, prosecution,
15 forfeiture of property, or penalty in any manner or denial of any
16 right or privilege, including any civil penalty or disciplinary
17 action by a court or occupational or professional licensing board
18 or bureau solely due to conduct authorized under Section 491.0051
19 or 491.0052.

20 (b) The fact that a person engages in conduct authorized by
21 Section 491.0051 or 491.0052 does not in itself constitute grounds
22 for denying, limiting, or restricting conservatorship or
23 possession of or access to a child under Title 5, Family Code.

24 Sec. 491.0054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;
25 EXCEPTION. (a) Except as otherwise provided by Subsection (b), a
26 person may prohibit or restrict the possession, consumption,
27 cultivation, distribution, processing, sale, or display of

1 cannabis or cannabis products on property the person owns,
2 occupies, or manages.

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

7 Sec. 491.0055. CONDUCT NOT AUTHORIZED UNDER THIS CHAPTER.
8 This chapter does not authorize the following conduct:

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

11 (2) smoking or otherwise consuming cannabis in:

12 (A) a motor vehicle while the vehicle is on a
13 public road;

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

16 (C) a watercraft, while the watercraft is on a
17 public waterway; or

18 (D) a public place, unless:

19 (i) the public place is an area designated
20 by the applicable political subdivision as an area where using
21 cannabis is permissible; and

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

24 (3) possessing or consuming cannabis or cannabis
25 products or possessing cannabis-related drug paraphernalia:

26 (A) on the premises of a public or private
27 child-care facility, prekindergarten, or primary or secondary

1 school;

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

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

7 (4) separating resin from the cannabis plant by butane
8 extraction or another method that uses a substance with a
9 flashpoint below 100 degrees Fahrenheit in a public place or motor
10 vehicle or within the curtilage of a residential structure.

11 SUBCHAPTER C. DUTIES OF DEPARTMENT

12 Sec. 491.0101. DUTIES OF DEPARTMENT. The department shall
13 administer this chapter.

14 Sec. 491.0102. RULES; FEES. (a) The commission shall adopt
15 all necessary rules for the administration and enforcement of this
16 chapter, including rules imposing fees under this chapter in
17 amounts sufficient to cover the cost of administering this chapter.

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

21 (c) A fee collected under this chapter shall be deposited to
22 the credit of the cannabis regulation account established under
23 Section 491.0251.

24 (d) The commission shall adopt rules for the reasonable
25 regulation of cannabis growers and cannabis establishments,
26 including rules that:

27 (1) restrict the use of dangerous pesticides;

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

3 (3) restrict advertising and display of cannabis and
4 cannabis products;

5 (4) require recordkeeping and monitoring to track the
6 transfer of cannabis and cannabis products between license holders;
7 and

8 (5) require security measures, provided that the
9 security measures do not restrict the cultivation of cannabis
10 outdoors or in greenhouses.

11 Sec. 491.0103. TESTING, PACKAGING, AND LABELING STANDARDS.

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

13 (1) the operation of cannabis testing facilities;

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

15 (3) packaging and labeling requirements for cannabis
16 and cannabis products.

17 (b) In establishing standards for packaging and labeling
18 requirements under Subsection (a)(3), the commission shall require
19 that:

20 (1) cannabis and cannabis products be packaged in
21 opaque, resealable, child-resistant packaging that does not
22 resemble and may not be easily confused with typical packaging for
23 commercially sold candy;

24 (2) cannabis and cannabis products be clearly labeled;
25 and

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

1 Sec. 491.0104. SECURE TRANSPORTATION OF CANNABIS. The
2 commission by rule shall establish standards applicable to cannabis
3 secure transporters, including standards to ensure all cannabis
4 establishments are properly served.

5 Sec. 491.0105. CONFLICT OF INTEREST. (a) A person who is
6 involved in the implementation, administration, or enforcement of
7 this chapter as a member of the commission, an employee of the
8 department, or a consultant to the commission or the department may
9 not also hold a pecuniary interest in any entity licensed by the
10 department under this chapter.

11 (b) A person who holds a pecuniary interest in a cannabis
12 testing facility or a cannabis secure transporter who holds a
13 license issued under this chapter may not hold a pecuniary interest
14 in any entity that holds a cannabis establishment or cannabis
15 grower license issued under this chapter.

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

19 Sec. 491.0106. ANNUAL REPORT. The executive director shall
20 annually submit to the governor, the executive commissioner of the
21 Health and Human Services Commission, and the legislature a report
22 providing the following information regarding licensing and
23 regulation under this chapter:

24 (1) the number of applications received for each class
25 of license under this chapter;

26 (2) the number of licenses issued for each class of
27 license under this chapter;

1 (3) demographic information pertaining to license
2 holders;

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

6 (5) a statement of revenues and expenses of the
7 department related to the implementation, administration, and
8 enforcement of this chapter.

9 SUBCHAPTER D. LICENSING

10 Sec. 491.0151. LICENSE REQUIRED. A person must hold a
11 license issued by the department under this chapter to operate as a
12 cannabis grower, cannabis establishment, cannabis secure
13 transporter, or cannabis testing facility.

14 Sec. 491.0152. QUALIFICATIONS FOR LICENSURE. The
15 commission by rule shall provide for each class of license issued
16 under this chapter qualifications for licensure that are
17 demonstrably related to the operations authorized and duties
18 imposed under that class of license.

19 Sec. 491.0153. APPLICATION. (a) A person may apply for an
20 initial or renewal license under this chapter by submitting a form
21 prescribed by the department along with the application fee in an
22 amount set by the commission.

23 (b) The application must indicate the class of license
24 sought and include the name and address of the applicant, the name
25 and address of each of the applicant's directors, managers, and
26 employees, and any other information considered necessary by the
27 department to determine the applicant's eligibility for the

1 license.

2 Sec. 491.0154. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

3 (a) The department shall issue or renew a license under this
4 chapter only if:

5 (1) the department determines the applicant meets the
6 qualifications for the class of license sought established under
7 Section 491.0152; and

8 (2) the applicant is in compliance with any applicable
9 local regulations.

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

13 (c) A license issued or renewed under this section expires
14 as determined by the department in accordance with Section [411.511](#),
15 Government Code.

16 Sec. 491.0155. DUTY TO MAINTAIN QUALIFICATIONS. A license
17 holder shall maintain compliance at all times with the
18 qualifications for the applicable class of license established
19 under Section 491.0152.

20 Sec. 491.0156. LICENSE SUSPENSION OR REVOCATION. (a) The
21 department may at any time suspend or revoke a license issued under
22 this chapter if the department determines that the license holder
23 has not maintained the qualifications established under Section
24 491.0152 or has failed to comply with a duty imposed under this
25 chapter.

26 (b) The department shall give written notice to a license
27 holder of a license suspension or revocation under this section and

1 the grounds for the suspension or revocation. The notice must be
2 sent by certified mail, return receipt requested.

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

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

17 Sec. 491.0157. CRIMINAL HISTORY BACKGROUND CHECK. (a) In
18 addition to satisfying the other requirements provided by
19 commission rule under this chapter, an applicant for a license
20 under this chapter must submit to the department a complete and
21 legible set of fingerprints, on a form prescribed by the
22 commission, for the purpose of obtaining criminal history record
23 information from the Department of Public Safety and the Federal
24 Bureau of Investigation.

25 (b) The department may deny a license to an applicant who
26 does not comply with the requirement of Subsection (a). Issuance of
27 a license by the department is conditioned on the department

1 obtaining the applicant's criminal history record information
2 under this section.

3 (c) The commission by rule shall establish criteria for
4 determining whether a person passes the criminal history background
5 check for purposes of this section. The rules adopted under this
6 section may not disqualify a person for licensure solely for a
7 conviction of an offense that involves the possession of marihuana
8 or the delivery of marihuana to a person 18 years of age or older.

9 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

10 Sec. 491.0201. DUTIES RELATING TO DISPENSING CANNABIS OR
11 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis products
12 to an adult, a cannabis establishment must make reasonable efforts
13 to verify that:

14 (1) the person receiving the cannabis or cannabis
15 product is an adult;

16 (2) the cannabis or cannabis product complies with
17 department testing and labeling rules; and

18 (3) the amount dispensed is not greater than the
19 amount of cannabis or cannabis product allowed for personal use as
20 provided by Section 491.0051.

21 Sec. 491.0202. DUTIES RELATING TO SECURITY. (a) A license
22 holder shall ensure that the cultivation, processing, sale, or
23 display of cannabis, cannabis products, and cannabis-related drug
24 paraphernalia is not visible from a public place without the use of
25 optical aids or aircraft.

26 (b) A license holder may not cultivate, process, store, or
27 sell cannabis, cannabis products, or cannabis-related drug

1 paraphernalia at a location other than the physical address
2 approved by the department for the establishment under the license
3 issued to the establishment under this chapter.

4 (c) A license holder shall adopt reasonable security
5 measures necessary to restrict access to areas where cannabis,
6 cannabis products, or cannabis-related drug paraphernalia are
7 stored and to prevent theft of cannabis, cannabis products, and
8 cannabis-related drug paraphernalia.

9 Sec. 491.0203. LICENSE HOLDER OPERATIONS. (a) A license
10 holder may not employ or otherwise accept the services of a person
11 younger than 21 years of age.

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

14 Sec. 491.0204. MONTHLY SALES REPORT. A cannabis
15 establishment shall monthly submit a report to the comptroller
16 specifying the amount of cannabis sold, the number of cannabis
17 products sold, the number and types of cannabis-related drug
18 paraphernalia sold, and the amount of money collected in sales by
19 the establishment during the preceding month.

20 SUBCHAPTER F. FUNDING FOR REGULATION, OVERSIGHT, TESTING, AND
21 QUALITY CONTROL

22 Sec. 491.0251. CANNABIS REGULATION ACCOUNT. (a) The
23 cannabis regulation account is an account in the general revenue
24 fund administered by the department.

25 (b) The account consists of:

26 (1) money deposited to the credit of the account under
27 Section 166.0004, Tax Code; and

1 (2) fees deposited to the credit of the account under
2 Section 491.0102.

3 (c) Money in the account may be appropriated only to the
4 department for implementing and administering this chapter.

5 Sec. 491.0252. CANNABIS TESTING AND QUALITY CONTROL
6 ACCOUNT. (a) The cannabis testing and quality control account is
7 an account in the general revenue fund administered by the
8 Department of Public Safety.

9 (b) The account consists of money deposited to the credit of
10 the account under Section 166.0004, Tax Code.

11 (c) Money in the account may be appropriated only to the
12 Department of Public Safety for monitoring compliance with testing
13 and quality control requirements imposed on license holders by this
14 chapter or by commission rules adopted under this chapter.

15 Sec. 491.0253. CANNABIS ESTABLISHMENT REGULATION AND
16 OVERSIGHT LOCAL SHARE ACCOUNT; PAYMENT FROM ACCOUNT. (a) In this
17 section:

18 (1) "Account" means the cannabis establishment
19 regulation and oversight local share account created under this
20 section.

21 (2) "Fiscal year" means the fiscal year of a
22 qualifying local government.

23 (3) "Qualifying local government" means a
24 municipality or county in which at least one cannabis establishment
25 is located during any portion of the applicable fiscal year.

26 (b) The cannabis establishment regulation and oversight
27 local share account is an account in the general revenue fund

1 administered by the comptroller.

2 (c) The account consists of money deposited to the credit of
3 the account under Section 166.0004, Tax Code.

4 (d) Money in the account may be used by the comptroller only
5 to make a cannabis establishment regulation assistance payment to a
6 qualifying local government in the manner provided by this section.

7 (e) To serve the state purpose of ensuring that local
8 governments in which cannabis establishments are located may
9 effectively participate in the regulation and oversight of those
10 establishments, a qualifying local government is entitled to a
11 cannabis establishment regulation assistance payment from the
12 state for each fiscal year that the local government is a qualifying
13 local government.

14 (f) Except as provided by Subsection (j), the amount of the
15 cannabis establishment regulation assistance payment to which a
16 qualifying local government is entitled for a fiscal year is equal
17 to the cost incurred by the local government to enforce regulations
18 adopted under Subchapter G.

19 (g) Not later than April 1 of the year following the end of a
20 fiscal year for which a qualifying local government is entitled to a
21 cannabis establishment regulation assistance payment, the
22 qualifying local government may submit an application to the
23 comptroller to receive a cannabis establishment regulation
24 assistance payment for that fiscal year. The application must be
25 made on a form prescribed by the comptroller. The comptroller may
26 require the qualifying local government to submit any information
27 the comptroller needs to determine the amount of the cannabis

1 establishment regulation assistance payment to which the
2 qualifying local government is entitled.

3 (h) A qualifying local government that does not submit an
4 application to the comptroller by the date prescribed by Subsection
5 (g) is not entitled to a cannabis establishment regulation
6 assistance payment for the fiscal year for which that deadline
7 applies.

8 (i) The comptroller shall review each application by a local
9 government to determine whether the local government is entitled to
10 a cannabis establishment regulation assistance payment. If the
11 comptroller determines that the local government is entitled to the
12 payment, the comptroller shall remit the payment using available
13 money in the account to the qualifying local government not later
14 than the 30th day after the date the application for the payment is
15 made.

16 (j) If at the time a cannabis establishment regulation
17 assistance payment must be remitted to a qualifying local
18 government under Subsection (i) the comptroller determines the
19 available amount in the account is insufficient to make the
20 payment, the comptroller may reduce the amount of the payment to the
21 qualifying local government. If more than one payment must be
22 remitted at a time when the available amount in the account is
23 insufficient to make those payments, the comptroller shall make
24 reduced payments to each qualifying local government. The
25 comptroller shall allocate the reductions in the amount of the
26 payments in a manner that is proportionate to the number of cannabis
27 establishments in each qualifying local government.

1 (k) The comptroller shall adopt rules necessary to
2 implement this section.

3 SUBCHAPTER G. LOCAL REGULATION AND OVERSIGHT

4 Sec. 491.0301. DEFINITION. In this subchapter, "health
5 authority" has the meaning assigned by Section 431.002.

6 Sec. 491.0302. LOCAL AUTHORIZATION REQUIRED. A license
7 holder under this chapter may not operate in a county or
8 municipality without an order or ordinance adopted by the county or
9 municipality, as applicable, authorizing the operation of cannabis
10 growers, cannabis establishments, cannabis secure transporters, or
11 cannabis testing facilities in the county or municipality.

12 Sec. 491.0303. LOCAL REGULATION. A county or municipality
13 that authorizes the operation of cannabis growers, cannabis
14 establishments, or cannabis testing facilities in the county or
15 municipality may adopt regulations consistent with this chapter
16 governing the hours of operation, location, manner of conducting
17 business, and number of cannabis growers, cannabis establishments,
18 cannabis secure transporters, or cannabis testing facilities.

19 Sec. 491.0304. PUBLIC HEALTH INSPECTIONS. A health
20 authority may, on presenting appropriate credentials to the license
21 holder or employee of the cannabis establishment:

22 (1) enter at reasonable times the premises of a
23 cannabis establishment;

24 (2) enter a vehicle being used to transport cannabis;
25 or

26 (3) inspect at reasonable times, within reasonable
27 limits, and in a reasonable manner, the establishment or vehicle

1 and all equipment, finished and unfinished materials, containers,
2 and labeling of any item.

3 Sec. 491.0305. COMPLAINTS. (a) A county, municipality, or
4 health authority, as applicable, shall maintain a record of any
5 complaints made regarding the operations of a cannabis
6 establishment.

7 (b) A county, municipality, or health authority, as
8 applicable, shall investigate a complaint or refer the complaint to
9 the department, as appropriate.

10 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS PRODUCT
11 TO MINORS PROHIBITED

12 Sec. 491.0351. DEFINITION. In this subchapter, "minor"
13 means a person younger than 21 years of age.

14 Sec. 491.0352. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS
15 PRODUCT TO MINORS PROHIBITED; PROOF OF AGE REQUIRED. (a) A person
16 commits an offense if the person, under the authority of this
17 chapter:

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

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

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

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

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

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

13 SECTION 2. Section 122.103(c), Agriculture Code, is amended
14 to read as follows:

15 (c) A qualified applicant who along with the application
16 submits proof to the department that the applicant holds a license
17 under Chapter 487 or 491, Health and Safety Code, is not required to
18 pay an application fee, and the department shall issue the license
19 to the applicant within the time prescribed by Subsection (b).

20 SECTION 3. Section 411.0891(a), Government Code, is amended
21 to read as follows:

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

26 (1) is an applicant for or holds a registration issued
27 by the director under Subchapter C, Chapter 481, Health and Safety

1 Code, that authorizes the person to manufacture, distribute,
2 analyze, or conduct research with a controlled substance;

3 (2) is an applicant for or holds a registration issued
4 by the department under Chapter 487, Health and Safety Code, to be a
5 director, manager, or employee of a dispensing organization, as
6 defined by Section 487.001, Health and Safety Code;

7 (2-a) is an applicant for or holds a license issued
8 under Chapter 491, Health and Safety Code, to be a cannabis grower,
9 cannabis establishment, cannabis secure transporter, or cannabis
10 testing facility, as defined by Section 491.0001, Health and Safety
11 Code;

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

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

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

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

27 Sec. 411.502. APPLICABILITY. This subchapter applies to a

1 program, and persons regulated under the program, administered by
2 the department under the following laws, including rules adopted
3 under those laws:

- 4 (1) Section 411.0625;
- 5 (2) Chapter 487, Health and Safety Code;
- 6 (2-a) Chapter 491, Health and Safety Code;
- 7 (3) Chapter 1702, Occupations Code;
- 8 (4) Chapter 1956, Occupations Code;
- 9 (5) Section 521.2476, Transportation Code; and
- 10 (6) Subchapter G, Chapter 548, Transportation 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 cannabis regulated under Chapter
15 491.

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 cannabis regulated under Chapter
20 491.

21 SECTION 7. Section 481.062, Health and Safety Code, is
22 amended to read as follows:

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

- 27 (1) an agent or employee of a registered manufacturer,

1 distributor, analyzer, or dispenser of the controlled substance
2 [~~who is registered with the Federal Drug Enforcement Administration~~
3 ~~and~~] acting in the usual course of business or 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 cannabis grower, cannabis establishment,
4 cannabis secure transporter, or cannabis testing facility licensed
5 under Chapter 491 that possesses cannabis or cannabis products; or

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

8 (b) In this section, "cannabis" and "cannabis product" have
9 the meanings assigned to those terms by Section 491.0001.

10 SECTION 8. Section [481.111](#), Health and Safety Code, is
11 amended by adding Subsections (g) and (h) to read as follows:

12 (g) Sections [481.113](#), [481.116](#), [481.120](#), [481.121](#), and
13 [481.125](#) do not apply to a person who engages in the acquisition,
14 possession, production, processing, cultivation, delivery,
15 transportation, disposal, transfer, or use of a raw material used
16 in or by-product created by the production or cultivation of
17 cannabis or cannabis products if the conduct is expressly
18 authorized by Subchapter B, Chapter 491.

19 (h) For purposes of Subsection (g), "cannabis" and
20 "cannabis product" have the meanings assigned to those terms by
21 Section 491.0001.

22 SECTION 9. Section [551.004](#), Occupations Code, is amended by
23 amending Subsection (a) and adding Subsection (a-1) to read as
24 follows:

25 (a) This subtitle does not apply to:

26 (1) a practitioner licensed by the appropriate state
27 board who supplies a patient of the practitioner with a drug in a

1 manner authorized by state or federal law and who does not operate a
2 pharmacy for the retailing of prescription drugs;

3 (2) a member of the faculty of a college of pharmacy
4 recognized by the board who is a pharmacist and who performs the
5 pharmacist's services only for the benefit of the college;

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

8 (4) a home and community support services agency that
9 possesses a dangerous drug as authorized by Section 142.0061,
10 142.0062, or 142.0063, Health and Safety Code; [~~or~~]

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

16 (6) a cannabis grower, cannabis establishment,
17 cannabis secure transporter, or cannabis testing facility licensed
18 under Chapter 491, Health and Safety Code, that cultivates,
19 manufactures, processes, distributes, delivers sells, tests,
20 transports, or dispenses cannabis or a cannabis product as
21 authorized by that chapter; or

22 (7) a person who transfers cannabis without
23 remuneration as authorized by Section 491.0051, Health and Safety
24 Code.

25 (a-1) For purposes of this section:

26 (1) "Cannabis," "cannabis establishment," "cannabis
27 grower," "cannabis product," "cannabis secure transporter," and

1 "cannabis testing facility" have the meanings assigned by Section
2 491.0001, Health and Safety Code.

3 (2) "Dispensing organization" and "low-THC cannabis"
4 have the meanings assigned by Section 487.001, Health and Safety
5 Code.

6 SECTION 10. Section 151.313(c), Tax Code, is amended to
7 read as follows:

8 (c) A product is a drug or medicine for purposes of this
9 section if the product:

10 (1) is intended for use in the diagnosis, cure,
11 mitigation, treatment, or prevention of disease, illness, injury,
12 or pain;

13 (2) is applied to the human body or is a product that a
14 human ingests or inhales;

15 (3) is not an appliance or device; ~~and~~

16 (4) is not food; and

17 (5) is not cannabis or a cannabis product, as those
18 terms are defined by Section 491.0001, Health and Safety Code.

19 SECTION 11. Section 151.314, Tax Code, is amended by adding
20 Subsection (i) to read as follows:

21 (i) The exemption provided by Subsection (a) does not apply
22 to a cannabis product, as defined by Section 491.0001, Health and
23 Safety Code.

24 SECTION 12. Section 151.316, Tax Code, is amended by adding
25 Subsection (e) to read as follows:

26 (e) The exemption provided by Subsection (a)(5) does not
27 apply to cannabis, as defined by Section 491.0001, Health and

1 Safety Code.

2 SECTION 13. Subtitle E, Title 2, Tax Code, is amended by
3 adding Chapter 166 to read as follows:

4 CHAPTER 166. TAX ON CANNABIS AND RELATED PRODUCTS

5 Sec. 166.0001. DEFINITIONS. In this chapter, "cannabis"
6 and "cannabis product" have the meanings assigned by Section
7 491.0001, Health and Safety Code.

8 Sec. 166.0002. CANNABIS SALES TAX. (a) A tax is imposed on
9 each sale in this state of cannabis and cannabis products.

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

12 Sec. 166.0003. APPLICATION OF OTHER PROVISIONS OF CODE.

13 (a) The tax imposed under this chapter is in addition to the taxes
14 imposed under Chapter 151.

15 (b) Except as provided by this chapter:

16 (1) the tax imposed under this chapter is
17 administered, imposed, collected, and enforced in the same manner
18 as the taxes under Chapter 151 are administered, imposed,
19 collected, and enforced; and

20 (2) the provisions of Chapter 151 applicable to the
21 sales tax imposed under Subchapter C, Chapter 151, apply to the tax
22 imposed under this chapter.

23 Sec. 166.0004. DISPOSITION OF PROCEEDS. The comptroller
24 shall deposit the proceeds from the tax imposed under this chapter
25 as follows:

26 (1) 10 percent to the credit of the cannabis
27 regulation account under Section 491.0251, Health and Safety Code;

1 (2) 10 percent to the credit of the cannabis testing
2 and quality control account under Section 491.0252, Health and
3 Safety Code;

4 (3) 20 percent to the credit of the cannabis
5 establishment regulation and oversight local share account under
6 Section 491.0253, Health and Safety Code; and

7 (4) the remainder to the credit of the foundation
8 school fund.

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

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

20 SECTION 15. The changes in law made by this Act do not
21 affect tax liability accruing before the effective date of this
22 Act. That liability continues in effect as if this Act had not been
23 enacted, and the former law is continued in effect for the
24 collection of taxes due and for civil and criminal enforcement of
25 the liability for those taxes.

26 SECTION 16. This Act takes effect September 1, 2021.