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H.B. No. 3948

A BILL TO BE ENTITLED

AN ACT

relating to the production and regulation of hemp and consumable  
hemp products; authorizing a fee.

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

SECTION 1. Section 121.003, Agriculture Code, is amended by  
adding Subsection (e) to read as follows:

(e) Not later than the 90th day after the date a change to a  
state statute, federal statute, or federal regulation takes effect,  
the department shall submit to the secretary of the United States  
Department of Agriculture any amendments to the state plan  
necessary to incorporate and implement the change.

SECTION 2. Subchapter A, Chapter 122, Agriculture Code, is  
amended by adding Section 122.005 to read as follows:

Sec. 122.005. HEMP RESEARCH BY INSTITUTIONS OF HIGHER  
EDUCATION. (a) The department shall issue a license to an  
institution of higher education in this state that requests the  
license.

(b) Notwithstanding any provision of this chapter or  
department rule other than Subsection (c), an institution of higher  
education conducting research involving hemp:

(1) is not required to pay a fee collected by the  
department under this chapter;

(2) is not required to obtain from the department a lot  
crop permit or other permit for each location where hemp is grown;

1           (3) is not required to obtain preharvest testing under  
2 Section 122.153 before harvesting plants, except as provided by  
3 Subsection (c);

4           (4) may use hemp seed and cultivate and handle plants  
5 grown from seed that is not certified or approved under Section  
6 122.252; and

7           (5) is not subject to Section 122.403(c) or (d).

8           (c) An institution of higher education may not sell or  
9 transfer hemp to another person unless the institution complies  
10 with the requirements of Sections 122.153 and 122.356.

11           SECTION 3. Section 122.051, Agriculture Code, is amended by  
12 adding Subsection (c) to read as follows:

13           (c) Not later than the 90th day after the date a change to  
14 this chapter, a federal statute, or a federal regulation takes  
15 effect, the department shall propose any rules necessary to  
16 incorporate and implement the change.

17           SECTION 4. Section 122.151, Agriculture Code, is amended by  
18 adding Subsection (g) to read as follows:

19           (g) A laboratory that performs testing required by this  
20 chapter shall report the delta-9 tetrahydrocannabinol  
21 concentration, the total tetrahydrocannabinol concentration, and  
22 the concentration of any other federally regulated cannabinoid of  
23 the sample on a dry weight basis and the measurement of uncertainty  
24 in the test result. The measurement of uncertainty must comply with  
25 International Organization for Standardization ISO/IEC 17025 or a  
26 comparable or successor standard. For purposes of this chapter,  
27 the delta-9 tetrahydrocannabinol concentration of the sample is the

1 lowest possible value given that measurement of uncertainty.

2 SECTION 5. Section 122.201(a), Agriculture Code, is amended  
3 to read as follows:

4 (a) A license holder shall harvest the plants from a plot  
5 not later than the 30th [~~20th~~] day after the date a preharvest  
6 sample is collected under Section 122.154 unless field conditions  
7 delay harvesting or the department authorizes the license holder to  
8 delay harvesting. This subsection does not prohibit the license  
9 holder from harvesting the plants immediately after the preharvest  
10 sample is collected.

11 SECTION 6. Subchapter E, Chapter 122, Agriculture Code, is  
12 amended by adding Section 122.203 to read as follows:

13 Sec. 122.203. HARVEST WHILE LICENSE SUSPENDED OR REVOKED.

14 (a) A person whose license is suspended or revoked after planting  
15 hemp plants may obtain preharvest or postharvest testing under  
16 Subchapter D and may harvest the plants under Section 122.201 in the  
17 same manner as a license holder.

18 (b) While a person's license is suspended or revoked, the  
19 department may:

20 (1) prohibit the person from selling or using plants  
21 harvested under Subsection (a); or

22 (2) if the delta-9 tetrahydrocannabinol concentration  
23 of the plants is not more than 0.3 percent on a dry weight basis,  
24 allow the person to sell or use plants harvested under Subsection  
25 (a) in the same manner as a license holder under Section 122.202.

26 (c) A person whose license is reinstated may sell or use  
27 plants harvested under Subsection (a) as provided by Section

1 [122.202.](#)

2 SECTION 7. The heading to Subchapter F, Chapter 122,  
3 Agriculture Code, is amended to read as follows:

4 SUBCHAPTER F. HEMP SEED AND PLANTS

5 SECTION 8. Section [122.252](#), Agriculture Code, is amended to  
6 read as follows:

7 Sec. 122.252. CERTIFICATION OR APPROVAL OF SEED AND PLANT  
8 VARIETIES. (a) The department or an entity authorized to certify  
9 seed and plants under Chapter 62 shall identify and certify or  
10 approve varieties of seed and plants confirmed to produce hemp.

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

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

23 (1) that state or jurisdiction's plan approved by the  
24 United States Department of Agriculture under 7 U.S.C. Section  
25 1639p; or

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

1 (d) The department shall maintain and make available to  
2 license holders a list of hemp seed and plant varieties [~~seeds~~]  
3 certified or approved under this section.

4 SECTION 9. Subchapter F, Chapter 122, Agriculture Code, is  
5 amended by adding Section 122.254 to read as follows:

6 Sec. 122.254. SEEDLINGS AND OTHER IMMATURE PLANTS. (a) In  
7 this section, "immature plant" means a hemp seedling, clone, or  
8 cutting that requires substantial cultivation and further growth  
9 before the beginning of the period under Section 122.201(a) when  
10 the plant may be harvested.

11 (b) A person may transport into this state, and a license  
12 holder may obtain and cultivate, immature plants propagated outside  
13 this state if the plants are accompanied by shipping documentation  
14 that:

15 (1) complies with any requirements of the state of  
16 origin;

17 (2) indicates the grower of the immature plants is  
18 licensed by the state of origin;

19 (3) lists the recipient license holder in this state  
20 and the recipient's license number; and

21 (4) shows that the variety of the immature plants is  
22 certified or approved under Section 122.252.

23 (c) A license holder may obtain and cultivate immature  
24 plants propagated in this state by another license holder if the  
25 plants are accompanied by the shipping certificate or cargo  
26 manifest required by Section 122.055 that shows that the variety of  
27 the immature plants is certified or approved under Section 122.252.

1 The immature plants are not subject to preharvest testing under  
2 Section 122.153.

3 (d) A license holder may transplant immature plants  
4 propagated by the license holder from one plot to another plot  
5 controlled by the license holder. The department by rule shall  
6 waive the requirement that a license holder obtain a lot crop permit  
7 for and may not require a license holder to pay any fee for a  
8 greenhouse or other location used to propagate immature plants if  
9 the plants are transplanted to another plot controlled by the  
10 license holder and are not sold or transferred to another person.  
11 The department by rule may waive the requirement that a person  
12 obtain a shipping certificate or cargo manifest to transplant  
13 immature plants from one plot to another plot operated by the  
14 license holder.

15 SECTION 10. Section 122.301, Agriculture Code, is amended  
16 by adding Subsection (c) to read as follows:

17 (c) Notwithstanding Subsection (b), a person may  
18 manufacture products described by that subsection in this state if:

19 (1) the products are sold only to persons located  
20 outside this state; and

21 (2) the person was manufacturing or processing  
22 consumable hemp products, as those terms are defined by Section  
23 443.001, Health and Safety Code, in this state on May 22, 2019.

24 SECTION 11. Subchapter A, Chapter 443, Health and Safety  
25 Code, is amended by adding Section 443.005 to read as follows:

26 Sec. 443.005. CONSUMABLE HEMP PRODUCTS ACCOUNT. (a) The  
27 consumable hemp products account is an account in the general

1 revenue fund administered by the department.

2 (b) The account consists of:

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

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

7 (3) fees collected under this chapter or under Chapter  
8 431 as it applies to consumable hemp products;

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

11 (5) penalties for violations of this chapter or  
12 Chapter 431 as it applies to consumable hemp products; and

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

15 (c) The department may accept appropriations and gifts,  
16 grants, or donations from any source to administer and enforce this  
17 chapter and Chapter 431 as it applies to consumable hemp products.  
18 Money received under this subsection shall be deposited in the  
19 account.

20 (d) Money in the account may be appropriated only to the  
21 department for the administration and enforcement of this chapter  
22 and Chapter 431 as it applies to consumable hemp products.

23 SECTION 12. Section 443.103, Health and Safety Code, is  
24 amended to read as follows:

25 Sec. 443.103. APPLICATION; ISSUANCE. An individual or  
26 establishment may apply for a license under this subchapter by  
27 submitting an application to the department on a form and in the

1 manner prescribed by the department. The application must be  
2 accompanied by:

3 (1) the physical address [~~a legal description~~] of each  
4 location where the applicant intends to process hemp or manufacture  
5 consumable hemp products [~~and the global positioning system~~  
6 ~~coordinates for the perimeter of each location~~];

7 (2) written consent from the applicant or the property  
8 owner if the applicant is not the property owner allowing the  
9 department, the Department of Public Safety, and any other state or  
10 local law enforcement agency to enter onto all premises where hemp  
11 is processed or consumable hemp products are manufactured to  
12 conduct a physical inspection or to ensure compliance with this  
13 chapter and rules adopted under this chapter;

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

16 (4) any other information required by department rule.

17 SECTION 13. Subchapter C, Chapter 443, Health and Safety  
18 Code, is amended by adding Section 443.106 to read as follows:

19 Sec. 443.106. CHANGE OF OWNERSHIP. The department may  
20 modify a license held by an establishment in the event of a change  
21 in ownership of the establishment if:

22 (1) the current owner and the new owner apply to the  
23 department for the modification;

24 (2) the new owner is not ineligible to hold the license  
25 under Section 443.102; and

26 (3) one party to the transaction submits any license  
27 modification fee to the department.



1 SECTION 14. Section 443.152, Health and Safety Code, is  
2 amended by adding Subsection (d) to read as follows:

3 (d) The executive commissioner by rule may exclude a  
4 substance that is generally recognized as having no risk of  
5 contaminating a finished consumable hemp product, including a  
6 microorganism or other substance that is inevitably destroyed or  
7 removed while processing or manufacturing the product, from the  
8 testing required under Section 443.151.

9 SECTION 15. Section 443.201, Health and Safety Code, is  
10 amended by adding Subsection (c) to read as follows:

11 (c) A person may transport and deliver a consumable hemp  
12 product to a consumer who purchased the product in compliance with  
13 this chapter. The person transporting and delivering the consumable  
14 hemp product is not required to:

15 (1) obtain a license under Section 443.101, unless the  
16 person processes or manufactures the product delivered; or

17 (2) register under Section 443.2025, unless the person  
18 sells the product delivered.

19 SECTION 16. Section 443.204, Health and Safety Code, is  
20 amended to read as follows:

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

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

27 (2) products containing one or more hemp-derived

1 cannabinoids, such as cannabidiol, intended for ingestion are  
2 considered foods, not controlled substances or adulterated  
3 products;

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

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

8 (b) Notwithstanding Subsection (a)(4), a person may  
9 manufacture products described by that subsection in this state if:

10 (1) the products are sold only to persons located  
11 outside this state; and

12 (2) the person was manufacturing or processing  
13 consumable hemp products in this state on May 22, 2019.

14 SECTION 17. This Act takes effect September 1, 2021.