

By: King of Uvalde, Guillen

H.B. No. 3948

Substitute the following for H.B. No. 3948:

By: Burns

C.S.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. Subchapter A, Chapter 443, Health and Safety
16 Code, is amended by adding Section 443.005 to read as follows:

17 Sec. 443.005. CONSUMABLE HEMP PRODUCTS ACCOUNT. (a) The
18 consumable hemp products account is an account in the general
19 revenue fund administered by the department.

20 (b) The account consists of:

21 (1) appropriations of money to the account by the
22 legislature;

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

25 (3) fees collected under this chapter or under Chapter
26 431 as it applies to consumable hemp products;

27 (4) interest and income earned on the investment of

1 money in the account;

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

4 (6) funds from any other source deposited in the
5 account.

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

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

14 SECTION 11. Section 443.103, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 443.103. APPLICATION; ISSUANCE. An individual or
17 establishment may apply for a license under this subchapter by
18 submitting an application to the department on a form and in the
19 manner prescribed by the department. The application must be
20 accompanied by:

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

25 (2) written consent from the applicant or the property
26 owner if the applicant is not the property owner allowing the
27 department, the Department of Public Safety, and any other state or

1 local law enforcement agency to enter onto all premises where hemp
2 is processed or consumable hemp products are manufactured to
3 conduct a physical inspection or to ensure compliance with this
4 chapter and rules adopted under this chapter;

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

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

8 SECTION 12. Subchapter C, Chapter 443, Health and Safety
9 Code, is amended by adding Section 443.106 to read as follows:

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

13 (1) the current owner and the new owner apply to the
14 department for the modification;

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

17 (3) one party to the transaction submits any license
18 modification fee to the department.

19 SECTION 13. Section 443.152, Health and Safety Code, is
20 amended by adding Subsection (d) to read as follows:

21 (d) The executive commissioner by rule may exclude a
22 substance that is generally recognized as having no risk of
23 contaminating a finished consumable hemp product, including a
24 microorganism or other substance that is inevitably destroyed or
25 removed while processing or manufacturing the product, from the
26 testing required under Section 443.151.

27 SECTION 14. Section 443.201, Health and Safety Code, is

1 amended by adding Subsection (c) to read as follows:

2 (c) A person may transport and deliver a consumable hemp
3 product to a consumer who purchased the product in compliance with
4 this chapter. The person transporting and delivering the consumable
5 hemp product is not required to:

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

8 (2) register under Section 443.2025, unless the person
9 sells the product delivered.

10 SECTION 15. This Act takes effect September 1, 2021.