

By: Talarico

H.B. No. 4089

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the cultivation, manufacture, processing, distribution, sale, testing, transportation, delivery, transfer, possession, use, and taxation of cannabis and cannabis products; authorizing the imposition of fees; requiring an occupational license; creating a criminal offense; imposing a tax.

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

SECTION 1. This Act may be cited as the Texas Regulation of Cannabis Act.

SECTION 2. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 491 to read as follows:

CHAPTER 491. REGULATION OF CANNABIS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 491.0001. DEFINITIONS. In this chapter:

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

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

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

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

1 (C) a compound, manufacture, salt, derivative,
2 mixture, or preparation of the mature stalks, fiber, oil, or cake;
3 or

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

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

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

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

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

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

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

1 (B) introducing cannabis or a cannabis product
2 into the human body.

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

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

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

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

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

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

18 (14) "Marihuana" has the meaning assigned by Section
19 [481.002](#).

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

24 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

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

27 (1) use, possess, and transport not more than 2.5

1 ounces of cannabis, except that not more than 15 grams of that
2 amount may be in the form of cannabis concentrate;

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

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

12 (A) equipped with locks or other security devices
13 that restrict access to the area; and

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

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

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

20 (i) not more than 12 cannabis plants are
21 possessed, cultivated, or processed on the premises at one time;
22 and

23 (ii) any amount of cannabis in excess of 2.5
24 ounces is stored in a container or area equipped with locks or other
25 security devices that restrict access to the contents of the
26 container or area; and

27 (B) 10 ounces of cannabis that were not produced

1 from cannabis plants cultivated on the premises, provided that the
2 amount in excess of 2.5 ounces is stored in a container or area
3 described by Paragraph (A)(ii);

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

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

10 Sec. 491.0052. AUTHORIZED CONDUCT: RETAIL CANNABIS
11 OPERATIONS. This chapter authorizes the conduct of:

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

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

16 (B) possesses cannabis or cannabis-related drug
17 paraphernalia;

18 (2) a cannabis establishment director, manager, or
19 employee who, acting within the scope of the establishment's
20 license, possesses cannabis or cannabis products or transfers or
21 sells cannabis, cannabis products, or cannabis-related drug
22 paraphernalia to an adult;

23 (3) a cannabis secure transporter director, manager,
24 or employee who, acting within the scope of the secure
25 transporter's license, transports, transfers, or delivers cannabis
26 or cannabis products from a cannabis grower to a cannabis
27 establishment; and

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

5 Sec. 491.0053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED
6 CONDUCT. (a) A person is not subject to arrest, prosecution,
7 forfeiture of property, or penalty in any manner or denial of any
8 right or privilege, including any civil penalty or disciplinary
9 action by a court or occupational or professional licensing board
10 or bureau solely due to conduct authorized under Section 491.0051
11 or 491.0052.

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

16 Sec. 491.0054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;
17 EXCEPTION. (a) Except as otherwise provided by Subsection (b), a
18 person may prohibit or restrict the possession, consumption,
19 cultivation, distribution, processing, sale, or display of
20 cannabis or cannabis products on property the person owns,
21 occupies, or manages.

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

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

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

3 (2) smoking or otherwise consuming cannabis in:

4 (A) a motor vehicle while the vehicle is on a
5 public road;

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

8 (C) a watercraft, while the watercraft is on a
9 public waterway; or

10 (D) a public place, unless:

11 (i) the public place is an area designated
12 by the applicable political subdivision as an area where using
13 cannabis is permissible; and

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

16 (3) possessing or consuming cannabis or cannabis
17 products or possessing cannabis-related drug paraphernalia:

18 (A) on the premises of a public or private
19 child-care facility, prekindergarten, or primary or secondary
20 school;

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

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

26 (4) separating resin from the cannabis plant by butane
27 extraction or another method that uses a substance with a

1 flashpoint below 100 degrees Fahrenheit in a public place or motor
2 vehicle or within the curtilage of a residential structure.

3 SUBCHAPTER C. DUTIES OF DEPARTMENT

4 Sec. 491.0101. DUTIES OF DEPARTMENT. The department shall
5 administer this chapter.

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

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

13 (c) A fee collected under this chapter shall be deposited to
14 the credit of the cannabis regulation account established under
15 Section 491.0251.

16 (d) The commission shall adopt rules for the reasonable
17 regulation of cannabis growers and cannabis establishments,
18 including rules that:

19 (1) restrict the use of dangerous pesticides;

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

22 (3) restrict advertising and display of cannabis and
23 cannabis products;

24 (4) restrict the maximum amount of
25 tetrahydrocannabinol that may be contained in a cannabis product
26 sold to a consumer;

27 (5) require recordkeeping and monitoring to track the

1 transfer of cannabis and cannabis products between license holders;
2 and
3 (6) require security measures, provided that the
4 security measures do not restrict the cultivation of cannabis
5 outdoors or in greenhouses.

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

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

8 (1) the operation of cannabis testing facilities;

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

10 (3) packaging and labeling requirements for cannabis
11 and cannabis products.

12 (b) In establishing standards for packaging and labeling
13 requirements under Subsection (a)(3), the commission shall require
14 that:

15 (1) cannabis and cannabis products be packaged in
16 opaque, resealable, child-resistant packaging that does not
17 resemble and may not be easily confused with typical packaging for
18 commercially sold candy;

19 (2) cannabis and cannabis products be clearly labeled;

20 and

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

23 Sec. 491.0104. SECURE TRANSPORTATION OF CANNABIS. The
24 commission by rule shall establish standards applicable to cannabis
25 secure transporters, including standards to ensure all cannabis
26 establishments are properly served.

27 Sec. 491.0105. CONFLICT OF INTEREST. (a) A person who is

1 involved in the implementation, administration, or enforcement of
2 this chapter as a member of the commission, an employee of the
3 department, or a consultant to the commission or the department may
4 not also hold a pecuniary interest in any entity licensed by the
5 department under this chapter.

6 (b) A person who holds a pecuniary interest in a cannabis
7 testing facility or a cannabis secure transporter who holds a
8 license issued under this chapter may not hold a pecuniary interest
9 in any entity that holds a cannabis establishment or cannabis
10 grower license issued under this chapter.

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

14 Sec. 491.0106. ANNUAL REPORT. The executive director shall
15 annually submit to the governor a report providing the following
16 information regarding licensing and regulation under this chapter:

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

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

21 (3) demographic information pertaining to license
22 holders;

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

26 (5) a statement of revenues and expenses of the
27 department related to the implementation, administration, and

1 enforcement of this chapter.

2 SUBCHAPTER D. LICENSING

3 Sec. 491.0151. LICENSE REQUIRED. A person must hold a
4 license issued by the department under this chapter to operate as a
5 cannabis grower, cannabis establishment, cannabis secure
6 transporter, or cannabis testing facility.

7 Sec. 491.0152. QUALIFICATIONS FOR LICENSURE. The
8 commission by rule shall provide for each class of license issued
9 under this chapter qualifications for licensure that are
10 demonstrably related to the operations authorized and duties
11 imposed under that class of license.

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

16 (b) The application must indicate the class of license
17 sought and include the name and address of the applicant, the name
18 and address of each of the applicant's directors, managers, and
19 employees, and any other information considered necessary by the
20 department to determine the applicant's eligibility for the
21 license.

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

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

25 (1) the department determines the applicant meets the
26 qualifications for the class of license sought established under
27 Section 491.0152; and

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

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

6 (c) A license issued or renewed under this section expires
7 as determined by the department in accordance with Section 411.511,
8 Government Code.

9 Sec. 491.0155. DUTY TO MAINTAIN QUALIFICATIONS. A license
10 holder shall maintain compliance at all times with the
11 qualifications for the applicable class of license established
12 under Section 491.0152.

13 Sec. 491.0156. LICENSE SUSPENSION OR REVOCATION. (a) The
14 department may at any time suspend or revoke a license issued under
15 this chapter if the department determines that the license holder
16 has not maintained the qualifications established under Section
17 491.0152 or has failed to comply with a duty imposed under this
18 chapter.

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

23 (c) After suspending or revoking a license issued under this
24 chapter, the department shall notify the Department of Public
25 Safety. The public safety director of the Department of Public
26 Safety may seize or place under seal all cannabis, cannabis
27 products, and cannabis-related drug paraphernalia owned or

1 possessed by the license holder. If the license is revoked, a
2 disposition may not be made of the seized or sealed cannabis,
3 cannabis products, or drug paraphernalia until the time for
4 administrative appeal of the order has elapsed or until all appeals
5 have been concluded. When a revocation order becomes final, all
6 cannabis, cannabis products, and drug paraphernalia may be
7 forfeited to the state as provided under Subchapter E, Chapter 481.

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

10 Sec. 491.0157. CRIMINAL HISTORY BACKGROUND CHECK. (a) In
11 addition to satisfying the other requirements provided by
12 commission rule under this chapter, an applicant for a license
13 under this chapter must submit to the department a complete and
14 legible set of fingerprints, on a form prescribed by the
15 commission, for the purpose of obtaining criminal history record
16 information from the Department of Public Safety and the Federal
17 Bureau of Investigation.

18 (b) The department may deny a license to an applicant who
19 does not comply with the requirement of Subsection (a). Issuance of
20 a license by the department is conditioned on the department
21 obtaining the applicant's criminal history record information
22 under this section.

23 (c) The commission by rule shall establish criteria for
24 determining whether a person passes the criminal history background
25 check for purposes of this section. The rules adopted under this
26 section may not disqualify a person for licensure solely for a
27 conviction of an offense that involves the possession of marihuana

1 or the delivery of marihuana to a person 18 years of age or older.

2 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

3 Sec. 491.0201. DUTIES RELATING TO DISPENSING CANNABIS OR
4 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis products
5 to an adult, a cannabis establishment must make reasonable efforts
6 to verify that:

7 (1) the person receiving the cannabis or cannabis
8 product is an adult;

9 (2) the cannabis or cannabis product complies with
10 department testing and labeling rules; and

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

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

19 (b) A license holder may not cultivate, process, store, or
20 sell cannabis, cannabis products, or cannabis-related drug
21 paraphernalia at a location other than the physical address
22 approved by the department for the establishment under the license
23 issued to the establishment under this chapter.

24 (c) A license holder shall adopt reasonable security
25 measures necessary to restrict access to areas where cannabis,
26 cannabis products, or cannabis-related drug paraphernalia are
27 stored and to prevent theft of cannabis, cannabis products, and

1 cannabis-related drug paraphernalia.

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

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

7 Sec. 491.0204. MONTHLY SALES REPORT. A cannabis
8 establishment shall monthly submit a report to the comptroller
9 specifying the amount of cannabis sold, the number of cannabis
10 products sold, the number and types of cannabis-related drug
11 paraphernalia sold, and the amount of money collected in sales by
12 the establishment during the preceding month.

13 SUBCHAPTER F. FUNDING FOR REGULATION, OVERSIGHT, TESTING, AND
14 QUALITY CONTROL

15 Sec. 491.0251. CANNABIS REGULATION ACCOUNT. (a) The
16 cannabis regulation account is an account in the general revenue
17 fund administered by the department.

18 (b) The account consists of:

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

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

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

25 Sec. 491.0252. CANNABIS TESTING AND QUALITY CONTROL
26 ACCOUNT. (a) The cannabis testing and quality control account is
27 an account in the general revenue fund administered by the

1 Department of Public Safety.

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

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

8 Sec. 491.0253. CANNABIS ESTABLISHMENT REGULATION AND
9 OVERSIGHT LOCAL SHARE ACCOUNT; PAYMENT FROM ACCOUNT. (a) In this
10 section:

11 (1) "Account" means the cannabis establishment
12 regulation and oversight local share account created under this
13 section.

14 (2) "Fiscal year" means the fiscal year of a
15 qualifying local government.

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

19 (b) The cannabis establishment regulation and oversight
20 local share account is an account in the general revenue fund
21 administered by the comptroller.

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

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

27 (e) To serve the state purpose of ensuring that local

1 governments in which cannabis establishments are located may
2 effectively participate in the regulation and oversight of those
3 establishments, a qualifying local government is entitled to a
4 cannabis establishment regulation assistance payment from the
5 state for each fiscal year that the local government is a qualifying
6 local government.

7 (f) Except as provided by Subsection (j), the amount of the
8 cannabis establishment regulation assistance payment to which a
9 qualifying local government is entitled for a fiscal year is equal
10 to the cost incurred by the local government to enforce regulations
11 adopted under Subchapter G.

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

23 (h) A qualifying local government that does not submit an
24 application to the comptroller by the date prescribed by Subsection
25 (g) is not entitled to a cannabis establishment regulation
26 assistance payment for the fiscal year for which that deadline
27 applies.

1 (i) The comptroller shall review each application by a local
2 government to determine whether the local government is entitled to
3 a cannabis establishment regulation assistance payment. If the
4 comptroller determines that the local government is entitled to the
5 payment, the comptroller shall remit the payment using available
6 money in the account to the qualifying local government not later
7 than the 30th day after the date the application for the payment is
8 made.

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

21 (k) The comptroller shall adopt rules necessary to
22 implement this section.

23 SUBCHAPTER G. LOCAL REGULATION AND OVERSIGHT

24 Sec. 491.0301. DEFINITION. In this subchapter, "health
25 authority" has the meaning assigned by Section [431.002](#).

26 Sec. 491.0302. PROHIBITED LOCAL REGULATION. A political
27 subdivision of this state may not enact, adopt, or enforce a rule,

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

7 Sec. 491.0303. PERMISSIBLE LOCAL REGULATION. A political
8 subdivision may adopt regulations consistent with this chapter
9 governing the hours of operation, location, manner of conducting
10 business, and number of cannabis growers, cannabis establishments,
11 or cannabis testing facilities.

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

15 (1) enter at reasonable times the premises of a
16 cannabis establishment;

17 (2) enter a vehicle being used to transport cannabis;
18 or

19 (3) inspect at reasonable times, within reasonable
20 limits, and in a reasonable manner, the establishment or vehicle
21 and all equipment, finished and unfinished materials, containers,
22 and labeling of any item.

23 Sec. 491.0305. COMPLAINTS. (a) A political subdivision or
24 health authority shall maintain a record of any complaints made to
25 the political subdivision or health authority regarding the
26 operations of a cannabis establishment.

27 (b) A political subdivision or health authority shall

1 investigate a complaint or refer the complaint to the department,
2 as appropriate.

3 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS PRODUCT
4 TO MINORS PROHIBITED

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

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

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

13 (2) sells, gives, or causes to be sold or given
14 cannabis or cannabis products to another person who intends to
15 deliver the cannabis or cannabis products to a minor.

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

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

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

25 (e) A proof of identification satisfies the requirements of
26 Subsection (d) if it contains a physical description and photograph
27 consistent with the person's appearance, purports to establish that

1 the person is 21 years of age or older, and was issued by a
2 governmental agency. The proof of identification may include a
3 driver's license issued by this state or another state, a passport,
4 or an identification card issued by a state or the federal
5 government.

6 SECTION 3. Section 122.103(c), Agriculture Code, is amended
7 to read as follows:

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

13 SECTION 4. Subchapter C, Chapter 42, Human Resources Code,
14 is amended by adding Section 42.068 to read as follows:

15 Sec. 42.068. CHILD CARE SERVICES PROGRAM SUPPORT ACCOUNT.

16 (a) The child care services program support account is an account
17 in the general revenue fund administered by the agency.

18 (b) The account consists of money deposited to the account
19 under Section 166.0004, Tax Code.

20 (c) Money in the account may be appropriated only to the
21 agency for the purpose of increasing subsidy funding for the child
22 care services program.

23 SECTION 5. Section 411.0891(a), Government Code, is amended
24 to read as follows:

25 (a) Subject to Section 411.087, the department is
26 authorized to obtain and use criminal history record information
27 maintained by the Federal Bureau of Investigation or the department

1 that relates to a person who:

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

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

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

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

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

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

1 SECTION 6. Section 411.502, Government Code, is amended to
2 read as follows:

3 Sec. 411.502. APPLICABILITY. This subchapter applies to a
4 program, and persons regulated under the program, administered by
5 the department under the following laws, including rules adopted
6 under those laws:

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

14 SECTION 7. Section 443.202(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) This section does not apply to low-THC cannabis
17 regulated under Chapter 487 or cannabis regulated under Chapter
18 491.

19 SECTION 8. Section 443.2025(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) This section does not apply to low-THC cannabis
22 regulated under Chapter 487 or cannabis regulated under Chapter
23 491.

24 SECTION 9. Section 481.062, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 481.062. EXEMPTIONS. (a) The following persons are
27 not required to register and may possess a controlled substance

1 under this chapter [~~without registering with the Federal Drug~~
2 ~~Enforcement Administration~~]:

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

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

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

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

21 (5) if the substance is tetrahydrocannabinol or one of
22 its derivatives:

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

27 (B) a practitioner or an ultimate user possessing

1 the substance as a participant in a federally approved therapeutic
2 research program that the commissioner has reviewed and found, in
3 writing, to contain a medically responsible research protocol; ~~or~~

4 (6) a dispensing organization licensed under Chapter
5 487 that possesses low-THC cannabis;

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

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

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

13 SECTION 10. Section 481.111, Health and Safety Code, is
14 amended by adding Subsections (g) and (h) to read as follows:

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

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

25 SECTION 11. Section 551.004, Occupations Code, is amended
26 by amending Subsection (a) and adding Subsection (a-1) to read as
27 follows:

1 (a) This subtitle does not apply to:

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

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

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

11 (4) a home and community support services agency that
12 possesses a dangerous drug as authorized by Section 142.0061,
13 142.0062, or 142.0063, Health and Safety Code; ~~[or]~~

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

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

25 (7) a person who transfers cannabis without
26 remuneration as authorized by Section 491.0051, Health and Safety
27 Code.

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

2 (1) "Cannabis," "cannabis establishment," "cannabis
3 grower," "cannabis product," "cannabis secure transporter," and
4 "cannabis testing facility" have the meanings assigned by Section
5 491.0001, Health and Safety Code.

6 (2) "Dispensing organization" and "low-THC cannabis"
7 have the meanings assigned by Section 487.001, Health and Safety
8 Code.

9 SECTION 12. Section 151.313(c), Tax Code, is amended to
10 read as follows:

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

13 (1) is intended for use in the diagnosis, cure,
14 mitigation, treatment, or prevention of disease, illness, injury,
15 or pain;

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

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

19 (4) is not food; and

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

22 SECTION 13. Section 151.314, Tax Code, is amended by adding
23 Subsection (i) to read as follows:

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

27 SECTION 14. Section 151.316, Tax Code, is amended by adding

1 Subsection (e) to read as follows:

2 (e) The exemption provided by Subsection (a)(5) does not
3 apply to cannabis, as defined by Section 491.0001, Health and
4 Safety Code.

5 SECTION 15. Subtitle E, Title 2, Tax Code, is amended by
6 adding Chapter 166 to read as follows:

7 CHAPTER 166. TAX ON CANNABIS AND RELATED PRODUCTS

8 Sec. 166.0001. DEFINITIONS. In this chapter, "cannabis"
9 and "cannabis product" have the meanings assigned by Section
10 491.0001, Health and Safety Code.

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

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

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

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

18 (b) Except as provided by this chapter:

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

23 (2) the provisions of Chapter 151 applicable to the
24 sales tax imposed under Subchapter C, Chapter 151, apply to the tax
25 imposed under this chapter.

26 Sec. 166.0004. DISPOSITION OF PROCEEDS. The comptroller
27 shall deposit the proceeds from the tax imposed under this chapter

1 as follows:

2 (1) 10 percent to the credit of the cannabis
3 regulation account under Section 491.0251, Health and Safety Code;

4 (2) 10 percent to the credit of the cannabis testing
5 and quality control account under Section 491.0252, Health and
6 Safety Code;

7 (3) 20 percent to the credit of the cannabis
8 establishment regulation and oversight local share account under
9 Section 491.0253, Health and Safety Code; and

10 (4) the remainder to the credit of the child care
11 services program support account under Section 42.068, Human
12 Resources Code.

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

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

24 SECTION 17. The changes in law made by this Act do not
25 affect tax liability accruing before the effective date of this
26 Act. That liability continues in effect as if this Act had not been
27 enacted, and the former law is continued in effect for the

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1 collection of taxes due and for civil and criminal enforcement of
2 the liability for those taxes.

3 SECTION 18. This Act takes effect September 1, 2021.