

By: Gutierrez

S.B. No. 140

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of the cultivation, manufacture,
3 distribution, sale, testing, possession, and use of cannabis and
4 cannabis products; authorizing the imposition of taxes and fees;
5 requiring an occupational license; creating a criminal offense; to
6 border security enhancement projects and the creation of a fund to
7 pay for those projects; to authorizing the possession, use,
8 cultivation, distribution, transportation, and delivery of medical
9 cannabis and the licensing of medical cannabis dispensing
10 organizations.

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

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

14 CHAPTER 491. REGULATION AND TAXATION OF CANNABIS

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Sec. 491.001. SHORT TITLE. This chapter may be cited as the
17 Real Solutions Act.

18 Sec. 491.002. DEFINITIONS. In this chapter:

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

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

1 term does not include:

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

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

5 (C) a compound, manufacture, salt, derivative,
6 mixture, or preparation of the mature stalks, fiber, oil, or cake;
7 or

8 (D) the sterilized seeds of the plant that are
9 incapable of beginning germination.

10 (3) "Cannabis concentrate" means the resin extracted
11 from a part of the plant Cannabis sativa L. or a compound,
12 manufacture, salt, derivative, mixture, or preparation of the
13 resin.

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

17 (5) "Cannabis grower" means an entity licensed by the
18 department to cultivate cannabis for sale and distribution to a
19 cannabis establishment.

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

25 (7) "Cannabis secure transporter" means an entity
26 licensed by the department under this chapter to transport cannabis
27 from a cannabis grower to a cannabis establishment.

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

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

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

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

11 (12) "Executive director" means the executive
12 director of the department.

13 (13) "Process" means to separate or otherwise prepare
14 parts of the cannabis plant and to compound, blend, extract,
15 infuse, or otherwise make or prepare cannabis concentrate or
16 cannabis products.

17 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

18 Sec. 491.051. AUTHORIZED CONDUCT: PERSONAL USE OF CANNABIS.

19 (a) An adult is authorized under this chapter to:

20 (1) use, possess, and transport not more than 2.5
21 ounces of cannabis, except that not more than 15 grams of that
22 amount may be in the form of cannabis concentrate;

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

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

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

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

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

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

13 (i) not more than the 12 cannabis plants are
14 possessed, cultivated, or processed on the premises at one time;
15 and

16 (ii) any amount of cannabis in excess of 2.5
17 ounces is stored in a container or area equipped with locks or other
18 security devices that restrict access to the contents of the
19 container or area; and

20 (B) 10 ounces of cannabis that was not produced
21 from plants cultivated on the premises, provided that the amount in
22 excess of 2.5 ounces is stored in a container or area described by
23 Paragraph (A)(ii);

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

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

3 Sec. 491.052. AUTHORIZED CONDUCT: RETAIL CANNABIS
4 OPERATIONS. This chapter authorizes the conduct of:

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

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

9 (B) possesses cannabis or cannabis-related drug
10 paraphernalia;

11 (2) a cannabis establishment director, manager, or
12 employee who, acting within the scope of the establishment's
13 license, possesses cannabis or cannabis products or transfers or
14 sells cannabis, cannabis products, or cannabis-related drug
15 paraphernalia to an adult;

16 (3) a cannabis secure transporter director, manager,
17 or employee who, acting within the scope of the secure
18 transporter's license, transports or transfers cannabis or
19 cannabis products from a cannabis grower to a cannabis
20 establishment; and

21 (4) a cannabis testing facility director, manager, or
22 employee who, acting within the scope of the facility's license,
23 possesses, tests, or transports cannabis, cannabis products, or
24 cannabis-related drug paraphernalia.

25 Sec. 491.053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED
26 CONDUCT. (a) A person is not subject to arrest, prosecution,
27 forfeiture of property, or penalty in any manner or denial of any

1 right or privilege, including any civil penalty or disciplinary
2 action by a court or occupational or professional licensing board
3 or bureau solely due to conduct authorized under Section 491.051 or
4 491.052.

5 (b) The fact that a person engages in conduct authorized by
6 Section 491.051 or 491.052 does not in itself constitute grounds
7 for denying, limiting, or restricting conservatorship or
8 possession of or access to a child under Title 5, Family Code.

9 Sec. 491.054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;
10 EXCEPTION. (a) Except as otherwise provided by Subsection (b), a
11 person may prohibit or restrict the possession, consumption,
12 cultivation, distribution, processing, sale, or display of
13 cannabis or cannabis products on property the person owns,
14 occupies, or manages.

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

19 Sec. 491.055. CONDUCT NOT AUTHORIZED UNDER THIS CHAPTER.
20 This chapter does not authorize the following conduct:

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

23 (2) smoking or otherwise consuming cannabis in:

24 (A) a motor vehicle while the vehicle is on a
25 public road;

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

1 (C) a watercraft, while the watercraft is on a
2 public waterway; or

3 (D) a public place, unless:

4 (i) the public place is an area designated
5 by a political subdivision as an area where using cannabis is
6 permissible; and

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

9 (3) possessing or consuming cannabis or cannabis
10 products or possessing cannabis-related drug paraphernalia:

11 (A) on the premises of a public or private child
12 care facility, prekindergarten, or primary or secondary school;

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

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

18 (4) the separation of resin from the cannabis plant by
19 butane extraction or another method that uses a substance with a
20 flashpoint below 100 degrees Fahrenheit in a public place or motor
21 vehicle or within the curtilage of a residential structure.

22 SUBCHAPTER C. DUTIES OF DEPARTMENT

23 Sec. 491.101. DUTIES OF DEPARTMENT. The department shall
24 administer this chapter.

25 Sec. 491.102. RULES; FEES. (a) The commission shall adopt
26 all necessary rules for the administration and enforcement of this
27 chapter, including rules imposing fees under this chapter in

1 amounts sufficient to cover the cost of administering this chapter.

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

5 (c) The department shall deposit a fee collected under this
6 chapter to the credit of the cannabis regulation fund established
7 under Section 491.255.

8 (d) The commission shall adopt rules for the reasonable
9 regulation of cannabis growers and cannabis establishments,
10 including rules that:

11 (1) restrict the use of dangerous pesticides;

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

14 (3) restrict advertising and display of cannabis and
15 cannabis products;

16 (4) restrict the maximum amount of
17 tetrahydrocannabinol that may be contained in a cannabis product
18 sold to a consumer;

19 (5) require recordkeeping and monitoring to track the
20 transfer of cannabis and cannabis products between license holders;
21 and

22 (6) require security measures provided that the
23 security measures do not restrict the cultivation of cannabis
24 outdoors or in greenhouses.

25 Sec. 491.103. TESTING, PACKAGING, AND LABELING STANDARDS.

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

27 (1) the operation of cannabis testing facilities;

1 (2) the testing of cannabis and cannabis products; and
2 (3) packaging and labeling requirements for cannabis
3 and cannabis products.

4 (b) In establishing standards for packaging and labeling
5 requirements under Subsection (a)(3), the commission shall require
6 that:

7 (1) cannabis and cannabis products be packaged in
8 opaque, resealable, child-resistant packaging that does not
9 resemble and may not be easily confused with typical packaging for
10 commercially sold candy;

11 (2) cannabis and cannabis products be clearly labeled;
12 and

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

15 Sec. 491.104. SECURE TRANSPORTATION OF CANNABIS. The
16 commission by rule shall establish standards applicable to cannabis
17 secure transporters, including standards to ensure all cannabis
18 establishments are properly served.

19 Sec. 491.105. CONFLICT OF INTEREST. (a) A person who is
20 involved in the implementation, administration, or enforcement of
21 this chapter as a member of the commission, an employee of the
22 department, or a consultant to the commission or the department may
23 not also hold a pecuniary interest in any entity licensed by the
24 department under this chapter.

25 (b) A person who holds a pecuniary interest in a cannabis
26 testing facility or a cannabis secure transporter that holds a
27 license issued under this chapter may not hold a pecuniary interest

1 in any entity that holds a cannabis establishment or cannabis
2 grower license issued under this chapter.

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

6 Sec. 491.106. ANNUAL REPORT. The executive director shall
7 annually submit to the governor a report providing the following
8 information regarding licensing and regulation under this chapter:

9 (1) the number of licenses issued for each class of
10 license under this chapter;

11 (2) demographic information pertaining to license
12 holders;

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

16 (4) a statement of revenues and expenses of the
17 department related to the implementation, administration, and
18 enforcement of this chapter.

19 SUBCHAPTER D. LICENSING

20 Sec. 491.151. LICENSE REQUIRED. A license issued by the
21 department under this chapter is required to operate as a cannabis
22 grower, cannabis establishment, cannabis secure transporter, or
23 cannabis testing facility.

24 Sec. 491.152. QUALIFICATIONS FOR LICENSURE. The commission
25 by rule shall provide for each class of license issued under this
26 chapter qualifications for licensure that are demonstrably related
27 to the operations authorized and duties imposed under that class of

1 license.

2 Sec. 491.153. APPLICATION. (a) A person may apply for an
3 initial or renewal license under this chapter by submitting a form
4 prescribed by the department along with the application fee in an
5 amount set by the commission.

6 (b) The application must indicate the class of license
7 sought and include the name and address of the applicant, the name
8 and address of each of the applicant's directors, managers, and
9 employees, and any other information considered necessary by the
10 department to determine the applicant's eligibility for the
11 license.

12 Sec. 491.154. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE. (a)
13 The department shall issue or renew a license under this chapter
14 only if:

15 (1) the department determines the applicant meets the
16 qualifications for the class of license sought established under
17 Section 491.152; and

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

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

23 (c) A license issued or renewed under this section expires
24 on the second anniversary of the date of issuance or renewal, as
25 applicable.

26 Sec. 491.155. DUTY TO MAINTAIN QUALIFICATIONS. A license
27 holder shall maintain compliance at all times with the

1 qualifications for the applicable class of license established
2 under Section 491.152.

3 Sec. 491.156. LICENSE SUSPENSION OR REVOCATION. (a) The
4 department may at any time suspend or revoke a license issued under
5 this chapter if the department determines that the license holder
6 has not maintained the qualifications established under Section
7 491.152 or has failed to comply with a duty imposed under this
8 chapter.

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

13 (c) After suspending or revoking a license issued under this
14 chapter, the department shall notify the Department of Public
15 Safety. The public safety director of the Department of Public
16 Safety may seize or place under seal all cannabis, cannabis
17 products, and cannabis-related drug paraphernalia owned or
18 possessed by the license holder. If the license is revoked, a
19 disposition may not be made of the seized or sealed cannabis,
20 cannabis products, or drug paraphernalia until the time for
21 administrative appeal of the order has elapsed or until all appeals
22 have been concluded. When a revocation order becomes final, all
23 cannabis, cannabis products, and drug paraphernalia may be
24 forfeited to the state as provided under Subchapter E, Chapter 481.

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

27 Sec. 491.157. CRIMINAL RECORD INFORMATION FOR LICENSE

1 APPLICANTS. (a) In addition to satisfying the other requirements
2 provided by commission rule under this chapter, an applicant for a
3 license under this chapter must submit to the department a complete
4 and legible set of fingerprints, on a form prescribed by the
5 commission, for the purpose of obtaining criminal history record
6 information from the Department of Public Safety and the Federal
7 Bureau of Investigation.

8 (b) The department may deny a license to an applicant who
9 does not comply with the requirement of Subsection (a). Issuance of
10 a license by the department is conditioned on the department
11 obtaining the applicant's criminal history record information
12 under this section.

13 (c) A person's conviction for an offense other than an
14 offense under Section 481.122, that involves the delivery or
15 possession of marihuana, as defined under Section 481.002, does not
16 disqualify an applicant for licensure under this chapter.

17 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

18 Sec. 491.201. DUTIES RELATING TO DISPENSING CANNABIS OR
19 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis products
20 to an adult, a cannabis establishment must make reasonable efforts
21 to verify that:

22 (1) the person receiving the cannabis or cannabis
23 product is an adult;

24 (2) the cannabis or cannabis product complies with
25 department testing and labeling rules; and

26 (3) the amount dispensed is not greater than the
27 amount of cannabis or cannabis product allowed for personal use as

1 provided by Section 491.051.

2 Sec. 491.202. DUTIES RELATING TO SECURITY. (a) A license
3 holder shall ensure that the cultivation, processing, sale, or
4 display of cannabis, cannabis products, and cannabis-related drug
5 paraphernalia is not visible from a public place without the use of
6 optical aids or aircraft.

7 (b) A license holder may not cultivate, process, store, or
8 sell cannabis, cannabis products, or cannabis-related drug
9 paraphernalia at a location other than the physical address
10 approved by the department for the establishment under the license
11 issued to the establishment under this chapter.

12 (c) A license holder shall adopt reasonable security
13 measures necessary to restrict access to areas where cannabis or
14 cannabis products are stored and to prevent theft of cannabis and
15 cannabis products.

16 Sec. 491.203. LICENSE HOLDER OPERATIONS. (a) A license
17 holder may not employ or otherwise accept the services of a person
18 younger than 21 years of age.

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

21 Sec. 491.204. MONTHLY SALES REPORT. A cannabis
22 establishment shall monthly submit a report to the comptroller
23 specifying the amount of cannabis sold, the number of cannabis
24 products sold, and the amount of money collected in sales by the
25 establishment during the preceding month.

26 SUBCHAPTER F. TAXES

27 Sec. 491.251. SALES TAX. Cannabis and cannabis products

1 are taxable items subject to the sales tax imposed by Chapter 151,
2 Tax Code.

3 Sec. 491.252. CANNABIS TAX IMPOSED. (a) A tax is imposed
4 on each sale of cannabis or a cannabis product by a cannabis
5 establishment or cannabis dispensing organization.

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

8 (c) The tax imposed by this section is administered,
9 collected, and enforced in the same manner as the tax under Chapter
10 151 is administered, collected, and enforced.

11 (d) The tax imposed by this section is in addition to any
12 other tax imposed by law.

13 Sec. 491.253. ALLOCATION OF CANNABIS TAX. (a) The
14 comptroller shall allocate the net revenue derived from the tax
15 imposed by this subchapter as follows:

16 (1) 5 percent to the Border Security Enhancement Fund;

17 (2) 5 percent to the Municipal Security Enhancement
18 Fund;

19 (3) one percent to the cannabis testing and quality
20 control fund established under Section 491.254;

21 (4) the amount certified to the comptroller by the
22 commission under Section 491.255 to the fund established under that
23 section; and

24 (5) the remainder to the Foundation School Program.

25 (b) In determining the local share for each municipality in
26 which one or more cannabis establishments are located, the
27 comptroller shall allocate funds under Subsection (a)(1) in

1 proportion to the number of cannabis establishments located in each
2 municipality.

3 (c) In determining the local share for each county in which
4 one or more cannabis establishments are located, the comptroller
5 shall allocate funds under Subsection (a)(2) in proportion to the
6 number of cannabis establishments located in each county.

7 Sec. 491.254. CANNABIS TESTING AND QUALITY CONTROL FUND.

8 (a) The cannabis testing and quality control fund is established
9 outside the treasury and is administered by the public safety
10 director of the Department of Public Safety.

11 (b) The public safety director shall use money in the fund
12 available to enable Department of Public Safety crime laboratory
13 facilities to test cannabis and cannabis products on request by the
14 executive director, for the purposes of assisting the department in
15 monitoring compliance with testing and quality control
16 requirements imposed on license holders under this chapter or by
17 commission rules adopted under this chapter.

18 (c) Interest and income from the assets of the trust fund
19 shall be credited to and deposited in the fund.

20 Sec. 491.255. CANNABIS REGULATION FUND. (a) The cannabis
21 regulation fund is established outside the treasury and is
22 administered by the commission.

23 (b) The commission shall make money in the fund available to
24 the department for implementing and administering this chapter,
25 including researching and addressing any other mental health,
26 substance use disorder, or addiction issue relating to the use of
27 cannabis.

1 (c) The commission shall monthly certify to the comptroller
2 the amount of money the department expended during the preceding
3 month in the implementation and administration of this chapter.

4 (d) Interest and income from the assets of the trust fund
5 shall be credited to and deposited in the fund.

6 SUBCHAPTER G. LOCAL REGULATION

7 Sec. 491.301. PROHIBITED LOCAL REGULATION. A political
8 subdivision of this state may not enact, adopt, or enforce a rule,
9 ordinance, order, resolution, or other regulation that prohibits or
10 unreasonably restricts the cultivation, production, processing,
11 dispensing, transportation, or possession of cannabis or cannabis
12 products or the operation of a cannabis grower, cannabis
13 establishment, cannabis secure transporter, or cannabis testing
14 facility as authorized by this chapter.

15 Sec. 491.302. PERMISSIBLE LOCAL REGULATION. A political
16 subdivision may adopt regulations consistent with this chapter
17 governing the hours of operation, location, manner of conducting
18 business, and number of cannabis growers, cannabis establishments,
19 or cannabis testing facilities.

20 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS PRODUCT
21 TO MINORS PROHIBITED

22 Sec. 491.351. DEFINITION. In this subchapter, "minor"
23 means a person younger than 21 years of age.

24 Sec. 491.352. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS
25 PRODUCT TO MINORS PROHIBITED; PROOF OF AGE REQUIRED. (a) A person
26 commits an offense if the person, under the authority of this
27 chapter:

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

3 (2) sells, gives, or causes to be sold or given
4 cannabis or cannabis products to another person who intends to
5 deliver the cannabis or cannabis products to a minor.

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

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

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

15 (e) A proof of identification satisfies the requirements of
16 Subsection (d) if it contains a physical description and photograph
17 consistent with the person's appearance, purports to establish that
18 the person is 21 years of age or older, and was issued by a
19 governmental agency. The proof of identification may include a
20 driver's license issued by this state or another state, a passport,
21 or an identification card issued by a state or the federal
22 government.

23 SECTION 2. Section 481.062, Health and Safety Code, is
24 amended to read as follows:

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

1 ~~Enforcement Administration]~~:

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

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

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

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

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

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

26 (B) a practitioner or an ultimate user possessing
27 the substance as a participant in a federally approved therapeutic

1 research program that the commissioner has reviewed and found, in
2 writing, to contain a medically responsible research protocol; ~~[or]~~

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

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

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

10 (b) In this section, "cannabis" and "cannabis product" have
11 the meanings assigned to those terms by Section 491.001.

12 SECTION 3. Section 481.111, Health and Safety Code, is
13 amended by adding Subsections (g) and (h) to read as follows:

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

20 (h) For purposes of Subsection (g), "cannabis" and
21 "cannabis product" have the meanings assigned to those terms by
22 Section 491.001.

23 SECTION 4. Section 481.121, Health and Safety Code, is
24 amended by adding Subsections (c) and (d) to read as follows:

25 (c) It is an affirmative defense to prosecution under
26 Subsection (a) that the person possessed the marijuana:

27 (1) as a patient of a physician licensed to practice

1 medicine in this state pursuant to the recommendation of that
2 physician for the amelioration of the symptoms or effects of a
3 medical condition; or

4 (2) as the primary caregiver of a patient described by
5 Subdivision (1), and the person possessed the marihuana only with
6 intent to assist the patient.

7 (d) An agency, including a law enforcement agency, of this
8 state or a political subdivision of this state may not initiate an
9 administrative, civil, or criminal investigation into a physician
10 licensed to practice medicine in this state solely on the ground
11 that the physician:

12 (1) discussed marihuana as a treatment option with a
13 patient of the physician; or

14 (2) made a written or oral statement that, in the
15 physician's professional opinion, the potential benefits of the use
16 of marihuana would likely outweigh the health risks for a
17 particular patient.

18 SECTION 5. Section [481.0764](#), Health and Safety Code, is
19 amended by adding Subsection (f) to read as follows:

20 (f) A prescriber, other than a veterinarian, who issues a
21 prescription for an opioid for acute or chronic pain, on issuance of
22 the initial prescription and on issuance of the second prescription
23 for the same substance, shall discuss with the patient and, if the
24 patient is a minor, the patient's parent, conservator, or guardian,
25 or other person authorized to consent to the minor's medical
26 treatment:

27 (1) the risk of addiction associated with the drug

1 prescribed, including any risk of developing a physical or
2 psychological dependence on the drug;

3 (2) the risk of taking the drug in a dosage greater
4 than the dosage prescribed;

5 (3) the danger of taking the drug with
6 benzodiazepines, alcohol, or other central nervous system
7 depressants; and

8 (4) the availability of medical cannabis recommended
9 under Chapter 169A, Occupations Code, and any other alternative
10 drugs or treatments available for the acute or chronic pain.

11 SECTION 6. Subtitle C, Title 6, Health and Safety Code, is
12 amended by adding Chapter 488 to read as follows:

13 CHAPTER 488. USE OF CANNABIS FOR MEDICAL PURPOSES

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 488.001. DEFINITIONS. In this chapter:

16 (1) "Department" means the Department of Public
17 Safety.

18 (2) "Director" means the public safety director of the
19 department.

20 (3) "Dispensing organization" means an organization
21 licensed by the department to cultivate, process, and dispense
22 medical cannabis to a patient for whom medical use is recommended
23 under Chapter 169A, Occupations Code.

24 (4) "Medical cannabis" and "medical use" have the
25 meanings assigned by Section 169A.001, Occupations Code.

26 SUBCHAPTER B. DUTIES OF DEPARTMENT

27 Sec. 488.051. DUTIES OF DEPARTMENT. The department shall

1 administer this chapter.

2 Sec. 488.052. RULES. (a) The director shall adopt any
3 rules necessary for the administration and enforcement of this
4 chapter.

5 (b) The director shall adopt rules imposing fees under this
6 chapter in amounts sufficient to cover the cost of administering
7 this chapter.

8 Sec. 488.053. LICENSING OF DISPENSING ORGANIZATIONS AND
9 REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS. (a) The
10 department shall:

11 (1) issue or renew a license under Subchapter C to
12 operate as a dispensing organization to each applicant who
13 satisfies the requirements established under this chapter for
14 licensure as a dispensing organization; and

15 (2) register directors, managers, and employees under
16 Subchapter D of each dispensing organization.

17 (b) The department shall enforce compliance of license
18 holders and registrants and shall adopt procedures for suspending
19 or revoking a license or registration issued under this chapter and
20 for renewing a license or registration issued under this chapter.

21 Sec. 488.054. MEDICAL USE REGISTRY. (a) The department
22 shall establish and maintain a secure online medical use registry
23 that contains:

24 (1) the name of each physician who registers as the
25 physician recommending medical use for a patient under Section
26 169A.003, Occupations Code, and the name and date of birth of the
27 patient; and

1 (2) the amount of medical cannabis dispensed to each
2 patient.

3 (b) The department shall ensure the registry:

4 (1) is designed to prevent more than one physician
5 from registering as the physician recommending medical use for a
6 single patient;

7 (2) is accessible to law enforcement agencies and
8 dispensing organizations for the purpose of verifying whether a
9 patient is one for whom medical use is recommended under Chapter
10 169A, Occupations Code; and

11 (3) allows a physician recommending medical use under
12 Chapter 169A, Occupations Code, to input safety and efficacy data
13 derived from the treatment of patients for whom medical use is
14 recommended.

15 SUBCHAPTER C. LICENSING TO OPERATE AS DISPENSING ORGANIZATION

16 Sec. 488.101. LICENSE REQUIRED. A person may not operate as
17 a dispensing organization without a license issued by the
18 department under this subchapter.

19 Sec. 488.102. ELIGIBILITY FOR LICENSE. An applicant for a
20 license to operate as a dispensing organization is eligible for the
21 license if:

22 (1) as determined by the department, the applicant
23 possesses:

24 (A) the technical and technological ability to
25 cultivate and produce medical cannabis;

26 (B) the ability to secure:

27 (i) the resources and personnel necessary

1 to operate as a dispensing organization; and

2 (ii) premises reasonably located to allow
3 patients listed on the medical use registry access to the
4 organization through existing infrastructure;

5 (C) the ability to maintain accountability for
6 the raw materials, the finished product, and any by-products used
7 or produced in the cultivation or production of medical cannabis to
8 prevent unlawful access to or unlawful diversion or possession of
9 those materials, products, or by-products; and

10 (D) the financial ability to maintain operations
11 for not less than two years from the date of application;

12 (2) each director, manager, or employee of the
13 applicant is registered under Subchapter D; and

14 (3) the applicant satisfies any additional criteria
15 determined by the director to be necessary to safely implement this
16 chapter.

17 Sec. 488.103. APPLICATION. (a) A person may apply for an
18 initial or renewal license under this subchapter by submitting a
19 form prescribed by the department along with the application fee in
20 an amount set by the director.

21 (b) A person is not required to pay an application fee if the
22 person holds a license under Subchapter C, Chapter 487.

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

1 Sec. 488.104. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE. (a)

2 The department shall issue or renew a license under this subchapter
3 only if:

4 (1) the department determines the applicant meets the
5 eligibility requirements described by Section 488.102; and

6 (2) issuance or renewal of the license is necessary to
7 ensure reasonable statewide access to, and the availability of,
8 medical cannabis for patients registered in the medical use
9 registry and for whom medical cannabis is recommended under Chapter
10 169A, Occupations Code.

11 (b) If the department denies the issuance or renewal of a
12 license under Subsection (a), the applicant is entitled to a
13 hearing. The department shall give written notice of the grounds
14 for denial to the applicant at least 30 days before the date of the
15 hearing.

16 (c) A license issued or renewed under this section expires
17 on the second anniversary of the date of issuance or renewal, as
18 applicable.

19 Sec. 488.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An
20 applicant for the issuance or renewal of a license under this
21 subchapter shall provide the department with the applicant's name
22 and the name of each of the applicant's directors, managers, and
23 employees.

24 (b) Before a dispensing organization under this subchapter
25 hires a manager or employee for the organization, the license
26 holder must provide the department with the name of the prospective
27 manager or employee. The license holder may not transfer the

1 license to another person before that prospective applicant and the
2 applicant's directors, managers, and employees pass a criminal
3 history background check and are registered as required by
4 Subchapter D.

5 (c) The department shall conduct a criminal history
6 background check on each individual whose name is provided to the
7 department under Subsection (a) or (b). The director by rule shall:

8 (1) determine the manner by which an individual is
9 required to submit a complete set of fingerprints to the department
10 for purposes of a criminal history background check under this
11 section; and

12 (2) establish criteria for determining whether an
13 individual passes the criminal history background check for the
14 purposes of this section.

15 (d) After conducting a criminal history background check
16 under this section, the department shall notify the relevant
17 applicant or organization and the individual who is the subject of
18 the criminal history background check as to whether the individual
19 passed the criminal history background check.

20 Sec. 488.106. DUTY TO MAINTAIN ELIGIBILITY. Each license
21 holder under this subchapter must maintain compliance at all times
22 with the eligibility requirements described by Section 488.102.

23 Sec. 488.107. DUTIES RELATING TO DISPENSING MEDICAL
24 CANNABIS. (a) Before dispensing medical cannabis to a person for
25 whom medical use is recommended under Chapter 169A, Occupations
26 Code, the dispensing organization must verify that the person is
27 listed as a patient in the medical use registry.

1 (b) After dispensing medical cannabis to a patient for whom
2 medical use is recommended under Chapter 169A, Occupations Code,
3 the dispensing organization shall record in the medical use
4 registry the form and quantity of the medical cannabis dispensed
5 and the date and time of dispensation.

6 Sec. 488.108. LABELING. Each product containing medical
7 cannabis dispensed under this chapter must bear a label that
8 clearly states the concentrations of tetrahydrocannabinol and
9 cannabidiol in the product.

10 Sec. 488.109. LICENSE SUSPENSION OR REVOCATION. (a) The
11 department may at any time suspend or revoke a license issued under
12 this subchapter if the department determines that the license
13 holder has not maintained the eligibility requirements described by
14 Section 488.102 or has failed to comply with a duty imposed under
15 this chapter.

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

20 (c) After suspending or revoking a license issued under this
21 subchapter, the director may seize or place under seal all medical
22 cannabis and drug paraphernalia owned or possessed by the
23 dispensing organization. If the director orders the revocation of
24 the license, a disposition may not be made of the seized or sealed
25 medical cannabis or drug paraphernalia until the time for
26 administrative appeal of the order has elapsed or until all appeals
27 have been concluded. When a revocation order becomes final, all

1 medical cannabis and drug paraphernalia may be forfeited to the
2 state as provided under Subchapter E, Chapter 481.

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

5 SUBCHAPTER D. REGISTRATION OF CERTAIN INDIVIDUALS

6 Sec. 488.151. REGISTRATION REQUIRED. (a) An individual
7 who is a director, manager, or employee of a dispensing
8 organization must apply for and obtain a registration under this
9 section.

10 (b) An applicant for a registration under this section must:

11 (1) be at least 18 years of age;

12 (2) submit a complete set of fingerprints to the
13 department in the manner required by department rule; and

14 (3) pass a fingerprint-based criminal history
15 background check as required by Section 488.105.

16 (c) A registration expires on the second anniversary of the
17 date of the registration's issuance, unless suspended or revoked
18 under rules adopted under this chapter.

19 SUBCHAPTER E. DUTIES OF COUNTIES AND MUNICIPALITIES

20 Sec. 488.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
21 MEDICAL CANNABIS. A municipality, county, or other political
22 subdivision may not enact, adopt, or enforce a rule, ordinance,
23 order, resolution, or other regulation that prohibits the
24 cultivation, production, dispensing, or possession of medical
25 cannabis, as authorized by this chapter.

26 SECTION 7. Subtitle B, Title 3, Occupations Code, is
27 amended by adding Chapter 169A to read as follows:

1 CHAPTER 169A. AUTHORITY TO RECOMMEND MEDICAL CANNABIS TO CERTAIN
2 PATIENTS WITH ACUTE OR CHRONIC PAIN

3 Sec. 169A.001. DEFINITIONS. In this chapter:

4 (1) "Department" means the Department of Public
5 Safety.

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

10 (A) not more than 5 percent by weight of
11 tetrahydrocannabinols; and

12 (B) not less than 10 percent by weight of
13 cannabidiol.

14 (3) "Medical use" means the ingestion by a means of
15 administration other than by smoking of a recommended amount of
16 medical cannabis by a person for whom medical use is recommended
17 under this chapter.

18 (4) "Smoking" means burning or igniting a substance
19 and inhaling the smoke.

20 Sec. 169A.002. RECOMMENDATION OF MEDICAL USE. (a) A
21 physician may recommend medical use in accordance with this chapter
22 for a patient with acute or chronic pain.

23 (b) A physician who recommends medical use for a patient
24 must:

25 (1) comply with the registration requirements of
26 Section 169A.003; and

27 (2) certify to the department that:

1 (A) the patient has acute or chronic pain for
2 which a prescription of an opioid would be medically appropriate;
3 and

4 (B) the physician has determined that the risk of
5 medical use by the patient is reasonable in light of the potential
6 benefit for the patient and the risks of treating the pain with an
7 opioid.

8 Sec. 169A.003. RECOMMENDING PHYSICIAN REGISTRATION.

9 Before a physician may recommend medical use for a patient under
10 this chapter, the physician must register as the recommending
11 physician for that patient in the medical use registry maintained
12 by the department under Section 488.054, Health and Safety
13 Code. The physician's registration must indicate:

14 (1) the physician's name; and

15 (2) the patient's name and date of birth.

16 Sec. 169A.004. PATIENT TREATMENT PLAN. A physician who
17 recommends medical use for a patient under this chapter must
18 maintain a patient treatment plan that indicates:

19 (1) a plan for monitoring the patient's symptoms; and

20 (2) a plan for monitoring indicators of tolerance or
21 reaction to medical cannabis.

22 SECTION 8. Section [161.001\(c\)](#), Family Code, is amended to
23 read as follows:

24 (c) A court may not make a finding under Subsection (b) and
25 order termination of the parent-child relationship based on
26 evidence that the parent:

27 (1) homeschooled the child;

- 1 (2) is economically disadvantaged;
- 2 (3) has been charged with a nonviolent misdemeanor
- 3 offense other than:
 - 4 (A) an offense under Title 5, Penal Code;
 - 5 (B) an offense under Title 6, Penal Code; or
 - 6 (C) an offense that involves family violence, as
 - 7 defined by Section 71.004 of this code;
- 8 (4) provided or administered low-THC cannabis to a
- 9 child for whom the low-THC cannabis was prescribed under Chapter
- 10 169, Occupations Code; ~~or~~
- 11 (5) provided or administered medical cannabis to a
- 12 child for whom medical cannabis was recommended under Chapter 169A,
- 13 Occupations Code; or
- 14 (6) declined immunization for the child for reasons of
- 15 conscience, including a religious belief.

16 SECTION 9. Section 262.116(a), Family Code, is amended to

17 read as follows:

- 18 (a) The Department of Family and Protective Services may not
- 19 take possession of a child under this subchapter based on evidence
- 20 that the parent:
 - 21 (1) homeschooled the child;
 - 22 (2) is economically disadvantaged;
 - 23 (3) has been charged with a nonviolent misdemeanor
 - 24 offense other than:
 - 25 (A) an offense under Title 5, Penal Code;
 - 26 (B) an offense under Title 6, Penal Code; or
 - 27 (C) an offense that involves family violence, as

1 defined by Section 71.004 of this code;

2 (4) provided or administered low-THC cannabis to a
3 child for whom the low-THC cannabis was prescribed under Chapter
4 169, Occupations Code; ~~[or]~~

5 (5) provided or administered medical cannabis to a
6 child for whom medical cannabis was recommended under Chapter 169A,
7 Occupations Code; or

8 (6) declined immunization for the child for reasons of
9 conscience, including a religious belief.

10 SECTION 10. Subchapter B, Chapter 164, Occupations Code, is
11 amended by adding Section 164.0535 to read as follows:

12 Sec. 164.0535. MEDICAL USE OF MARIHUANA. A physician may
13 not be denied any right or privilege or be subject to any
14 disciplinary action solely for making a written or oral statement
15 that, in the physician's professional opinion, the potential
16 benefits of the use of marihuana would likely outweigh the health
17 risks for a particular patient.

18 SECTION 11. Chapter 421, Government Code, is amended by
19 adding Subchapter G and H to read as follows:

20 SUBCHAPTER G. BORDER SECURITY ENHANCEMENT

21 Sec. 421.101. DEFINITION. In this subchapter, "fund" means
22 the border security enhancement fund.

23 Sec. 421.102. BORDER SECURITY ENHANCEMENT FUND. (a) The
24 border security enhancement fund is an account in the general
25 revenue fund to be administered by the governor under this
26 subchapter and rules adopted by the governor under this subchapter.

27 (b) The fund consists of appropriations of money made by the

1 legislature for deposit to the credit of the fund and funds
2 dedicated from the tax imposed by 491.252, Health and Safety Code.

3 Sec. 421.103. FUND INTEREST. The comptroller shall deposit
4 to the credit of the foundation school fund interest and other
5 earnings made on the balance of the border security enhancement
6 fund.

7 Sec. 421.104. USE OF FUND. The governor shall dispense
8 money in this fund to local law enforcement authorities in counties
9 located on an international border or municipalities located within
10 50 miles of an international border for the following purposes:

11 (1) the prevention of human trafficking and entry into
12 the United States of contraband, including but not limited to
13 narcotics and other controlled substances;

14 (2) the establishment a program for the creation of
15 border crossing checkpoints within counties located on the
16 Texas-Mexico border operated by local law enforcement authorities;
17 and

18 (3) the pay and salary of peace officers and other law
19 enforcement personnel.

20 Sec. 421.107. RULES. The governor shall adopt rules
21 necessary to carry out this subchapter.

22 SUBCHAPTER H. MUNICIPAL SECURITY ENHANCEMENT

23 Sec. 421.101. DEFINITION. In this subchapter, "fund" means
24 the municipal security enhancement fund.

25 Sec. 421.102. MUNICIPAL SECURITY ENHANCEMENT FUND. (a)
26 The municipal security enhancement fund is an account in the
27 general revenue fund to be administered by the governor under this

1 subchapter and rules adopted by the governor under this subchapter.

2 (b) The fund consists of appropriations of money made by the
3 legislature for deposit to the credit of the fund and funds
4 dedicated from the tax imposed by 491.252, Health and Safety Code.

5 Sec. 421.103. FUND INTEREST. The comptroller shall deposit
6 to the credit of the foundation school fund interest and other
7 earnings made on the balance of the municipal security enhancement
8 fund.

9 Sec. 421.104. USE OF FUND. The governor shall dispense
10 money in this fund to local law enforcement authorities in
11 municipalities with a population of at least 1.2 million for the
12 following purposes:

13 (1) the prevention and investigation of violent
14 crimes, family violence, and intoxication offenses; and

15 (2) the pay and salary of peace officers and other law
16 enforcement personnel.

17 Sec. 421.107. RULES. The governor shall adopt rules
18 necessary to carry out this subchapter.

19 SECTION 12. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 governed by the law in effect on the date the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense occurred
26 before that date.

27 SECTION 13. (a) Not later than July 1, 2022, the Texas

1 Commission of Licensing and Regulation shall adopt rules as
2 required to implement, administer, and enforce Chapter 491, Health
3 and Safety Code, as added by this Act.

4 (b) Not later than November 1, 2022, the Texas Department of
5 Licensing and Regulation shall begin licensing cannabis growers,
6 cannabis establishments, cannabis secure transporters, and
7 cannabis testing facilities in accordance with Chapter 491, Health
8 and Safety Code, as added by this Act, provided that the applicants
9 for a license have met all requirements for approval under Chapter
10 491, Health and Safety Code, as added by this Act.

11 SECTION 14. Not later than January 1, 2022, the public
12 safety director of the Department of Public Safety shall adopt
13 rules as required to implement, administer, and enforce Chapter
14 488, Health and Safety Code, as added by this Act, including rules
15 to establish the medical use registry required by that chapter.

16 SECTION 15. Section 481.0764(f), Health and Safety Code, as
17 added by this Act, applies only to a prescription issued on or after
18 January 1, 2022.

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