

By: Alvarado

S.B. No. 250

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the possession, use, cultivation,
3 distribution, transportation, and delivery of medical cannabis for
4 medical use by patients for whom a physician determines medical use
5 is the best available treatment for the patient's medical condition
6 or symptoms and the licensing of medical cannabis dispensing
7 organizations; authorizing fees.

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

9 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is
10 amended by adding Chapter 487A to read as follows:

11 CHAPTER 487A. USE OF CANNABIS FOR MEDICAL PURPOSES

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 487A.001. DEFINITIONS. In this chapter:

14 (1) "Department" means the Department of Public
15 Safety.

16 (2) "Director" means the public safety director of the
17 department.

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

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

24 SUBCHAPTER B. DUTIES OF DEPARTMENT

1 Sec. 487A.051. DUTIES OF DEPARTMENT. The department shall
2 administer this chapter.

3 Sec. 487A.052. RULES. (a) The director shall adopt any
4 rules necessary for the administration and enforcement of this
5 chapter.

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

9 Sec. 487A.053. LICENSING OF DISPENSING ORGANIZATIONS AND
10 REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS. (a) The
11 department shall:

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

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

18 (b) Subject to Section 411.503, Government Code, the
19 department shall enforce compliance of license holders and
20 registrants and shall adopt procedures for suspending or revoking a
21 license or registration issued under this chapter and for renewing
22 a license or registration issued under this chapter.

23 Sec. 487A.054. MEDICAL USE REGISTRY. (a) The department
24 shall establish and maintain a secure online medical use registry
25 that contains:

26 (1) the name of each physician who registers as the
27 physician recommending medical use for a patient under Section

1 169A.003, Occupations Code, and the name and date of birth of the
2 patient; and

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

5 (b) The department shall ensure the registry:

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

9 (2) is accessible to law enforcement agencies and
10 dispensing organizations for the purpose of verifying whether a
11 patient is one for whom medical use is recommended under Chapter
12 169A, Occupations Code; and

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

17 SUBCHAPTER C. LICENSING TO OPERATE AS DISPENSING ORGANIZATION

18 Sec. 487A.101. LICENSE REQUIRED. A person may not operate
19 as a dispensing organization without a license issued by the
20 department under this subchapter.

21 Sec. 487A.102. ELIGIBILITY FOR LICENSE. An applicant for a
22 license to operate as a dispensing organization is eligible for the
23 license if:

24 (1) as determined by the department, the applicant
25 possesses:

26 (A) the technical and technological ability to
27 cultivate and produce medical cannabis;

1 (B) the ability to secure:

2 (i) the resources and personnel necessary
3 to operate as a dispensing organization; and

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

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

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

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

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

19 Sec. 487A.103. APPLICATION. (a) A person may apply for an
20 initial or renewal license under this subchapter by submitting a
21 form prescribed by the department along with the application fee in
22 an amount set by the director.

23 (b) 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. 487A.104. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

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

4 (1) the department determines the applicant meets the
5 eligibility requirements described by Section 487A.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 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. Chapter 2001, Government Code, applies to a proceeding
14 under this section.

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

18 Sec. 487A.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An
19 applicant for the issuance or renewal of a license under this
20 subchapter shall provide the department with the applicant's name
21 and the name of each of the applicant's directors, managers, and
22 employees.

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

1 applicant's directors, managers, and employees pass a criminal
2 history background check and are registered as required by
3 Subchapter D.

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

7 (1) require each individual whose name is provided to
8 the department under Subsection (a) or (b) to submit a complete set
9 of fingerprints to the department on a form prescribed by the
10 department for purposes of a criminal history background check
11 under this 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. 487A.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 487A.102.

23 Sec. 487A.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. 487A.108. LICENSE SUSPENSION OR REVOCATION. (a) The
7 department may at any time suspend or revoke a license issued under
8 this subchapter if the department determines that the license
9 holder has not maintained the eligibility requirements described by
10 Section 487A.102 or has failed to comply with a duty imposed under
11 this chapter.

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

16 (c) After suspending or revoking a license issued under this
17 subchapter, the director may seize or place under seal all medical
18 cannabis and drug paraphernalia owned or possessed by the
19 dispensing organization. If the director orders the revocation of
20 the license, a disposition may not be made of the seized or sealed
21 medical cannabis or drug paraphernalia until the time for
22 administrative appeal of the order has elapsed or until all appeals
23 have been concluded. When a revocation order becomes final, all
24 medical cannabis and drug paraphernalia may be forfeited to the
25 state as provided under Subchapter E, Chapter 481.

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

1 SUBCHAPTER D. REGISTRATION OF CERTAIN INDIVIDUALS

2 Sec. 487A.151. REGISTRATION REQUIRED. (a) An individual
3 who is a director, manager, or employee of a dispensing
4 organization must apply for and obtain a registration under this
5 section.

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

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

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

10 (3) pass a fingerprint-based criminal history
11 background check as required by Section 487A.105.

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

15 SUBCHAPTER E. DUTIES OF COUNTIES AND MUNICIPALITIES

16 Sec. 487A.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
17 MEDICAL CANNABIS. A municipality, county, or other political
18 subdivision may not enact, adopt, or enforce a rule, ordinance,
19 order, resolution, or other regulation that prohibits the
20 cultivation, production, dispensing, or possession of medical
21 cannabis, as authorized by this chapter.

22 SECTION 2. Subtitle B, Title 3, Occupations Code, is
23 amended by adding Chapter 169A to read as follows:

24 CHAPTER 169A. AUTHORITY TO RECOMMEND MEDICAL CANNABIS TO CERTAIN
25 PATIENTS

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

27 (1) "Department" means the Department of Public

1 Safety.

2 (2) "Medical cannabis" means the plant Cannabis sativa
3 L., and any part of that plant or any compound, manufacture, salt,
4 derivative, mixture, preparation, resin, or oil of that plant.

5 (3) "Medical use" means the ingestion by a means of
6 administration other than by smoking of a recommended amount of
7 medical cannabis by a person for whom medical use is recommended
8 under this chapter.

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

11 Sec. 169A.002. RECOMMENDATION OF MEDICAL USE. (a) A
12 physician may recommend medical use in accordance with this chapter
13 to any patient for the treatment of the patient's medical condition
14 or symptoms if, in the physician's medical judgment, medical use is
15 the best available treatment for that patient's medical condition
16 or symptoms.

17 (b) A physician who recommends medical use for a patient
18 must:

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

21 (2) certify to the department that the physician has
22 determined that:

23 (A) medical use is the best available treatment
24 for the patient's medical condition or symptoms; and

25 (B) the risk of medical use by the patient is
26 reasonable in light of the potential benefit for the patient.

27 Sec. 169A.003. RECOMMENDING PHYSICIAN REGISTRATION. (a)

1 Before a physician may recommend medical use for a patient under
2 this chapter, the physician must register as the recommending
3 physician for that patient in the medical use registry maintained
4 by the department under Section 487A.054, Health and Safety Code.
5 The physician's registration must indicate:

- 6 (1) the physician's name; and
7 (2) the patient's name and date of birth.

8 (b) The department may not publish the name of a physician
9 registered under this section unless permission is expressly
10 granted by the physician.

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

- 14 (1) a plan for monitoring the patient's symptoms; and
15 (2) a plan for monitoring indicators of tolerance or
16 reaction to medical cannabis.

17 SECTION 3. Section [122.103\(c\)](#), Agriculture Code, is amended
18 to read as follows:

19 (c) A qualified applicant who along with the application
20 submits proof to the department that the applicant holds a license
21 under Chapter [487](#) or [487A](#), Health and Safety Code, is not required
22 to pay an application fee, and the department shall issue the
23 license to the applicant within the time prescribed by Subsection
24 (b).

25 SECTION 4. Section [161.001\(c\)](#), Family Code, is amended to
26 read as follows:

27 (c) A court may not make a finding under Subsection (b) and

1 order termination of the parent-child relationship based on
2 evidence that the parent:

3 (1) homeschooled the child;

4 (2) is economically disadvantaged;

5 (3) has been charged with a nonviolent misdemeanor
6 offense other than:

7 (A) an offense under Title 5, Penal Code;

8 (B) an offense under Title 6, Penal Code; or

9 (C) an offense that involves family violence, as
10 defined by Section 71.004 of this code;

11 (4) provided or administered low-THC cannabis to a
12 child for whom the low-THC cannabis was prescribed under Chapter
13 169, Occupations Code; ~~or~~

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

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

19 SECTION 5. Section 262.116(a), Family Code, is amended to
20 read as follows:

21 (a) The Department of Family and Protective Services may not
22 take possession of a child under this subchapter based on evidence
23 that the parent:

24 (1) homeschooled the child;

25 (2) is economically disadvantaged;

26 (3) has been charged with a nonviolent misdemeanor
27 offense other than:

- 1 (A) an offense under Title 5, Penal Code;
2 (B) an offense under Title 6, Penal Code; or
3 (C) an offense that involves family violence, as
4 defined by Section 71.004 of this code;

5 (4) provided or administered low-THC cannabis to a
6 child for whom the low-THC cannabis was prescribed under Chapter
7 169, Occupations Code; ~~or~~

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

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

13 SECTION 6. Section 411.0891(a), Government Code, is amended
14 to read as follows:

15 (a) Subject to Section 411.087, the department is
16 authorized to obtain and use criminal history record information
17 maintained by the Federal Bureau of Investigation or the department
18 that relates to a person who:

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

23 (2) is an applicant for or holds a registration issued
24 by the department under Chapter 487 or 487A, Health and Safety Code,
25 to be a director, manager, or employee of a dispensing
26 organization, as defined by Section 487.001 or 487A.001, Health and
27 Safety Code;

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

5 (4) is an applicant for or holds certification by the
6 department as an inspection station or an inspector under
7 Subchapter G, Chapter 548, Transportation Code, holds an inspection
8 station or inspector certificate issued under that subchapter, or
9 is the owner of an inspection station operating under that chapter;
10 or

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

14 SECTION 7. Section 411.502, Government Code, is amended to
15 read as follows:

16 Sec. 411.502. APPLICABILITY. This subchapter applies to a
17 program, and persons regulated under the program, administered by
18 the department under the following laws, including rules adopted
19 under those laws:

- 20 (1) Section 411.0625;
- 21 (2) Chapter 487, Health and Safety Code;
- 22 (3) Chapter 487A, Health and Safety Code;
- 23 (4) Chapter 1702, Occupations Code;
- 24 (5) [~~4~~] Chapter 1956, Occupations Code;
- 25 (6) [~~5~~] Section 521.2476, Transportation Code; and
- 26 (7) [~~6~~] Subchapter G, Chapter 548, Transportation
27 Code.

1 SECTION 8. Section 443.202(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) This section does not apply to low-THC cannabis
4 regulated under Chapter 487 or medical cannabis regulated under
5 Chapter 487A.

6 SECTION 9. Section 443.2025(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) This section does not apply to low-THC cannabis
9 regulated under Chapter 487 or medical cannabis regulated under
10 Chapter 487A.

11 SECTION 10. Section 481.062(a), Health and Safety Code, is
12 amended to read as follows:

13 (a) The following persons may possess a controlled
14 substance under this chapter without registering with the federal
15 [~~Federal~~] Drug Enforcement Administration:

16 (1) an agent or employee of a manufacturer,
17 distributor, analyzer, or dispenser of the controlled substance who
18 is registered with the federal [~~Federal~~] Drug Enforcement
19 Administration and acting in the usual course of business or
20 employment;

21 (2) a common or contract carrier, a warehouseman, or
22 an employee of a carrier or warehouseman whose possession of the
23 controlled substance is in the usual course of business or
24 employment;

25 (3) an ultimate user or a person in possession of the
26 controlled substance under a lawful order of a practitioner or in
27 lawful possession of the controlled substance if it is listed in

1 Schedule V;

2 (4) an officer or employee of this state, another
3 state, a political subdivision of this state or another state, or
4 the United States who is lawfully engaged in the enforcement of a
5 law relating to a controlled substance or drug or to a customs law
6 and authorized to possess the controlled substance in the discharge
7 of the person's official duties;

8 (5) if the substance is tetrahydrocannabinol or one of
9 its derivatives:

10 (A) a Department of State Health Services
11 official, a medical school researcher, or a research program
12 participant possessing the substance as authorized under
13 Subchapter G; or

14 (B) a practitioner or an ultimate user possessing
15 the substance as a participant in a federally approved therapeutic
16 research program that the commissioner has reviewed and found, in
17 writing, to contain a medically responsible research protocol; ~~or~~

18 (6) a dispensing organization licensed under Chapter
19 [487](#) that possesses low-THC cannabis; or

20 (7) a dispensing organization licensed under Chapter
21 487A that possesses medical cannabis.

22 SECTION 11. Sections [481.111](#)(e) and (f), Health and Safety
23 Code, are amended to read as follows:

24 (e) Sections [481.120](#), [481.121](#), [481.122](#), and [481.125](#) do not
25 apply to a person who engages in the acquisition, possession,
26 production, cultivation, delivery, or disposal of a raw material
27 used in or by-product created by the production or cultivation of

1 low-THC cannabis or medical cannabis if the person:

2 (1) for an offense involving possession only of
3 marihuana or drug paraphernalia, is a patient for whom low-THC
4 cannabis is prescribed under Chapter 169, Occupations Code, or the
5 patient's legal guardian, and the person possesses low-THC cannabis
6 obtained under a valid prescription from a dispensing organization;
7 [~~or~~]

8 (2) is a director, manager, or employee of a low-THC
9 cannabis dispensing organization and the person, solely in
10 performing the person's regular duties at the organization,
11 acquires, possesses, produces, cultivates, dispenses, or disposes
12 of:

13 (A) in reasonable quantities, any low-THC
14 cannabis or raw materials used in or by-products created by the
15 production or cultivation of low-THC cannabis; or

16 (B) any drug paraphernalia used in the
17 acquisition, possession, production, cultivation, delivery, or
18 disposal of low-THC cannabis;

19 (3) for an offense involving possession only of
20 marihuana or drug paraphernalia, is a patient for whom medical use
21 is recommended under Chapter 169A, Occupations Code, or the
22 patient's legal guardian; or

23 (4) is a director, manager, or employee of a medical
24 cannabis dispensing organization and the person, solely in
25 performing the person's regular duties at the organization,
26 acquires, possesses, produces, cultivates, dispenses, or disposes
27 of:

1 (A) in reasonable quantities, any medical
2 cannabis or raw materials used in or by-products created by the
3 production or cultivation of medical cannabis; or

4 (B) any drug paraphernalia used in the
5 acquisition, possession, production, cultivation, delivery, or
6 disposal of medical cannabis.

7 (f) For purposes of Subsection (e):

8 (1) [~~"Dispensing organization" has the meaning~~
9 ~~assigned by Section 487.001.~~

10 [~~(2)~~] "Low-THC cannabis" has the meaning assigned by
11 Section 169.001, Occupations Code.

12 (2) "Low-THC cannabis dispensing organization" means
13 a dispensing organization as defined by Section 487.001.

14 (3) "Medical cannabis" and "medical use" have the
15 meanings assigned by Section 169A.001, Occupations Code.

16 (4) "Medical cannabis dispensing organization" means
17 a dispensing organization as defined by Section 487A.001.

18 SECTION 12. Section 551.004, Occupations Code, is amended
19 by amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

21 (a) This subtitle does not apply to:

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

26 (2) a member of the faculty of a college of pharmacy
27 recognized by the board who is a pharmacist and who performs the

1 pharmacist's services only for the benefit of the college;

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

4 (4) a home and community support services agency that
5 possesses a dangerous drug as authorized by Section 142.0061,
6 142.0062, or 142.0063, Health and Safety Code; ~~or~~

7 (5) a low-THC cannabis dispensing organization~~[, as~~
8 ~~defined by Section 487.001, Health and Safety Code,~~] that
9 cultivates, processes, and dispenses low-THC cannabis, as
10 authorized by a license issued under Subchapter C, Chapter 487,
11 Health and Safety Code, to a patient listed in the
12 compassionate-use registry established under that chapter; or

13 (6) a medical cannabis dispensing organization that
14 cultivates, processes, and dispenses medical cannabis, as
15 authorized by a license issued under Subchapter C, Chapter 487A,
16 Health and Safety Code, to a patient listed in the medical use
17 registry established under that chapter.

18 (a-1) For purposes of Subsections (a)(5) and (6):

19 (1) "Low-THC cannabis dispensing organization" means
20 a dispensing organization as defined by Section 487.001, Health and
21 Safety Code.

22 (2) "Medical cannabis dispensing organization" means
23 a dispensing organization as defined by Section 487A.001, Health
24 and Safety Code.

25 SECTION 13. Not later than January 1, 2022, the public
26 safety director of the Department of Public Safety shall adopt
27 rules as required to implement, administer, and enforce Chapter

1 487A, Health and Safety Code, as added by this Act, including rules
2 to establish the medical use registry required by that chapter.

3 SECTION 14. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2021.