

By: Bucy

H.B. No. 1467

A BILL TO BE ENTITLED

AN ACT

relating to drug testing and prescription drug policies and certain legal protections for employees and independent contractors of state agencies and political subdivisions and for other persons regarding the medical use of low-THC cannabis and hemp.

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

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. DRUG TESTING AND PRESCRIPTION DRUG POLICIES

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "Drug test" means a technical analysis of an individual's biological specimen to determine the presence or absence of specified drugs or metabolites.

(2) "Hemp" has the meaning assigned by Section 121.001, Agriculture Code.

(3) "Low-THC cannabis" has the meaning assigned by Section 169.001, Occupations Code.

Sec. 620.002. EXCEPTIONS. This chapter does not apply to:

(1) an employee of a state agency or political subdivision of this state who is required to comply with United States Department of Transportation drug testing regulations in accordance with 49 C.F.R. Part 40; or

(2) a peace officer described by Article 2.12, Code of Criminal Procedure, who is elected, employed, or appointed as a

peace officer by a state agency or a political subdivision of this state.

Sec. 620.003. PROHIBITED DRUG TESTING AND PRESCRIPTION DRUG POLICIES. A state agency or a political subdivision of this state may not:

(1) establish a drug testing policy that requires an employee or independent contractor of the agency or political subdivision as a condition of employment or contract to submit to a drug test the intent of which is to screen for the presence of cannabinoids;

(2) as a condition of employment or contract with the agency or political subdivision, administer or require the administration of a drug test to the employee or contractor the intent of which is to screen for the presence of cannabinoids;

(3) establish for the employee or contractor as a condition of employment or contract a test result that is negative for the presence of cannabinoids; or

(4) prohibit an employee or contractor as a condition of employment or contract from:

(A) prescribing or obtaining a prescription for low-THC cannabis or using low-THC cannabis in accordance with Chapter 169, Occupations Code; or

(B) using a consumable hemp product.

Sec. 620.004. MEDICAL PRIVACY. A state agency or a political subdivision of this state may not question an employee about the employee's use of low-THC cannabis or hemp and shall comply with all relevant state and federal privacy laws, including

1 Chapter 181, Health and Safety Code, and the Health Insurance
2 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
3 and regulations adopted under that Act.

4 Sec. 620.005. RELIEF AVAILABLE. (a) A person may assert an
5 actual or threatened violation of Section 620.003 or 620.004 as a
6 claim or defense in a judicial or administrative proceeding and
7 obtain:

8 (1) compensatory damages;
9 (2) injunctive relief;
10 (3) declaratory relief; and
11 (4) other appropriate relief, including reasonable
12 attorney's fees.

13 (b) Notwithstanding any other law, a person may commence an
14 action under this section and relief may be granted regardless of
15 whether the person sought or exhausted available administrative
16 remedies.

17 Sec. 620.006. IMMUNITY WAIVED. A person who alleges a
18 violation of Section 620.003 or 620.004 may sue the state agency or
19 political subdivision for the relief provided under Section
20 620.005. Sovereign or governmental immunity, as applicable, is
21 waived and abolished to the extent of liability for that relief.

22 SECTION 2. Chapter 487, Health and Safety Code, is amended
23 by adding Subchapter A-1 to read as follows:

24 SUBCHAPTER A-1. PROTECTIONS RELATED TO MEDICAL USE OF CANNABIS

25 Sec. 487.021. DEFINITION. In this subchapter, "authorized
26 medical use" means a medical use of a substance that is authorized
27 under:

- (1) this chapter;
- (2) Subchapter G, Chapter 481;
- (3) Chapter 169, Occupations Code; or
- (4) department rule.

Sec. 487.022. APPLICABILITY. The protections provided by this subchapter apply to a person who is:

(1) a patient for whom authorized medical use is prescribed under Chapter 169, Occupations Code, or the parent or caregiver of the patient;

(2) a dispensing organization; or

(3) a director, manager, or employee of a dispensing organization who is registered with the department under Section 487.053.

Sec. 487.023. PROTECTION FROM LEGAL ACTION. Notwithstanding any other law, a person described by Section 487.022 is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any administrative or civil penalty or disciplinary action imposed by a court or state licensing board, for conduct involving authorized medical use.

Sec. 487.024. PROHIBITED PRESUMPTION OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT. A person described by Section 487.022 may not be presumed to have engaged in conduct constituting child abuse, neglect, or endangerment solely because the person engaged in conduct involving authorized medical use.

Sec. 487.025. PROHIBITED DENIAL OF PARENTAL RIGHTS. The fact that a person described by Section 487.022 engages in conduct

involving authorized medical use does not in itself constitute grounds for denying, limiting, or restricting conservatorship or possession of or access to a child under Title 5, Family Code.

Sec. 487.026. PROHIBITED SEIZURE OR FORFEITURE. Property used in the cultivation, research, testing, processing, distribution, transportation, and delivery of low-THC cannabis for authorized medical use is not contraband for purposes of Chapter 59, Code of Criminal Procedure, and is not subject to seizure or forfeiture under that chapter or other law solely for the use of the property for the authorized activities.

Sec. 487.027. PROHIBITED PROSECUTION FOR PROVISION OF PARAPHERNALIA. A person is not subject to arrest, prosecution, or the imposition of any sentence or penalty for the delivery, possession with intent to deliver, or manufacture of any item that meets the definition of drug paraphernalia, as defined by Section 481.002, if that item is delivered, possessed with intent to deliver, or manufactured for the sole purpose of providing that item to:

(1) a person for whom authorized medical use is prescribed under Chapter 169, Occupations Code; or

(2) a licensed dispensing organization.

Sec. 487.028. PROHIBITED DISCIPLINARY ACTION AGAINST STUDENTS AND SCHOOL HEALTH CARE PROFESSIONALS. (a) Notwithstanding any other law, a student for whom low-THC cannabis is prescribed under Chapter 169, Occupations Code, may not be subject to suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline

1 solely because the student possessed, used, or was prescribed
2 low-THC cannabis.

3 (b) Notwithstanding any other law, a school health care
4 professional assisting a student described by Subsection (a) in the
5 administration of low-THC cannabis may not be subject to any
6 disciplinary action solely because of the assistance.

7 SECTION 3. The changes in law made by this Act apply only to
8 the administration of a drug testing or prescription drug policy or
9 a drug test on or after the effective date of this Act.

10 SECTION 4. This Act takes effect September 1, 2023.