

By: Klick

H.B. No. 4238

A BILL TO BE ENTITLED

AN ACT

relating to the production, sale, distribution, delivery, and regulation of consumable hemp products.

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

SECTION 1. Subchapter A, Chapter 443, Health and Safety Code, is amended by adding Sections 443.005 and 443.006 to read as follows:

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

(b) The account consists of:

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

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

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

(4) interest and income earned on the investment of money in the account;

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

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

(c) The department may accept appropriations and gifts,

1 grants, or donations from any source to administer and enforce this
2 chapter and Chapter 431 as it applies to consumable hemp products.
3 Money received under this subsection shall be deposited in the
4 account.

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

8 Sec. 443.006. TETRAHYDROCANNABINOL CONTENT. (a)
9 Notwithstanding any other law, a person may not manufacture, sell,
10 or purchase a consumable hemp product in this state:

11 (1) that has a delta-9 tetrahydrocannabinol
12 concentration of more than 0.3 percent on a dry weight basis;

13 (2) that contains synthetically derived
14 tetrahydrocannabinols, as defined by department rule, including
15 synthetically derived acids, isomers, or salts of
16 tetrahydrocannabinol;

17 (3) that exceeds any federal limit for
18 tetrahydrocannabinol; or

19 (4) if additional tetrahydrocannabinol in a
20 concentration greater than 0.3 percent on a dry weight basis has
21 been applied to the product.

22 (b) Chapter 481 prevails to the extent of any conflict with
23 this section.

24 SECTION 2. Section 443.103, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 443.103. APPLICATION; ISSUANCE. An individual or
27 establishment may apply for a license under this subchapter by

1 submitting an application to the department on a form and in the
2 manner prescribed by the department. The application must be
3 accompanied by:

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

8 (2) written consent from the applicant or the property
9 owner if the applicant is not the property owner allowing the
10 department, the Department of Public Safety, and any other state or
11 local law enforcement agency to enter onto all premises where hemp
12 is processed or consumable hemp products are manufactured to
13 conduct a physical inspection or to ensure compliance with this
14 chapter and rules adopted under this chapter;

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

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

18 SECTION 3. Subchapter C, Chapter 443, Health and Safety
19 Code, is amended by adding Section 443.106 to read as follows:

20 Sec. 443.106. EXPEDITED LICENSING PROCESS. The department
21 by rule may provide an expedited licensing process for the
22 purchaser of a business that requires a license.

23 SECTION 4. Section 443.152, Health and Safety Code, is
24 amended by adding Subsection (d) to read as follows:

25 (d) The executive commissioner by rule may exclude a
26 substance that is generally recognized as having no risk of
27 contaminating a finished consumable hemp product, including a

1 microorganism or other substance that is inevitably destroyed or
2 removed while processing or manufacturing the product, from the
3 testing required under Section 443.151.

4 SECTION 5. Section 443.201, Health and Safety Code, is
5 amended by adding Subsection (c) to read as follows:

6 (c) A person may transport and deliver a consumable hemp
7 product to a consumer who purchased the product in compliance with
8 this chapter. The person transporting and delivering the consumable
9 hemp product is not required to:

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

12 (2) register under Section 443.2025, unless the person
13 sells the product delivered.

14 SECTION 6. Section 443.2025, Health and Safety Code, is
15 amended by amending Subsections (b), (d), and (f) and adding
16 Subsection (d-1) to read as follows:

17 (b) A person may not sell or distribute consumable hemp
18 products containing cannabinoids to consumers [~~cannabidiol at~~
19 ~~retail~~] in this state, other than products generally recognized as
20 safe by the United States Food and Drug Administration, unless the
21 person registers with the department each location owned, operated,
22 or controlled by the person at which those products are sold. A
23 person is not required to register a location associated with an
24 employee or independent contractor described by Subsection (d).

25 (d) A person is not required to register with the department
26 under Subsection (b) if the person is:

27 (1) an employee of a registrant; or

1 (2) an independent contractor of a registrant who
2 sells the registrant's products to consumers [~~at retail~~].

3 (d-1) A person is required to register with the department
4 under Subsection (b) if the person, as an employee or independent
5 contractor of a person located outside this state who is not a
6 registrant, sells or distributes products covered by Subsection (b)
7 in this state.

8 (f) The department by rule may adopt a registration fee
9 schedule that establishes reasonable fee amounts for the
10 registration of:

11 (1) a single location at which consumable hemp
12 products containing cannabinoids [~~cannabidiol~~] are sold; and

13 (2) multiple locations at which consumable hemp
14 products containing cannabinoids [~~cannabidiol~~] are sold under a
15 single registration.

16 SECTION 7. Section [443.203](#), Health and Safety Code, is
17 amended by adding Subsection (c) to read as follows:

18 (c) A person who sells, offers for sale, or distributes a
19 consumable hemp product commits a false, misleading, or deceptive
20 act or practice actionable under Subchapter E, Chapter 17, Business
21 & Commerce Code, if the person claims the product is made in this
22 state and less than 75 percent of the hemp contained in the product
23 was:

24 (1) grown in this state by a person who holds a license
25 under Chapter [122](#), Agriculture Code; and

26 (2) processed in this state by a person who holds a
27 license under this chapter.

1 SECTION 8. Section 443.205(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) Before a consumable hemp product, including hemp plant
4 material, that contains or is marketed as containing more than
5 trace amounts of cannabinoids may be distributed or sold, the
6 product must be labeled in the manner provided by this section with
7 the following information:

8 (1) batch identification number;

9 (2) batch date;

10 (3) product name;

11 (4) a uniform resource locator (URL) that provides or
12 links to a certificate of analysis for the product or each
13 hemp-derived ingredient of the product;

14 (5) the name of the product's manufacturer; and

15 (6) a certification that the delta-9
16 tetrahydrocannabinol concentration of the product or each
17 hemp-derived ingredient of the product is not more than 0.3
18 percent.

19 SECTION 9. This Act takes effect September 1, 2023.