

By: Perry, et al.

S.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain products derived from hemp, including consumable hemp products and the hemp-derived cannabinoids contained in those products; requiring occupational licenses and registrations; imposing fees; creating criminal offenses; authorizing an administrative penalty.

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

SECTION 1. Section 431.011(a), Health and Safety Code, is amended to read as follows:

(a) This chapter applies to a consumable hemp product subject to Chapter 443. ~~[An article regulated under this chapter may not be deemed to be adulterated solely on the basis that the article is a consumable hemp product.]~~

SECTION 2. Section 443.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (8-a) to read as follows:

(1) "Consumable hemp product" means a product suitable for ingestion, absorption, or inhalation by humans, including a food, a drug, a device, or a cosmetic, as those terms are defined by Section 431.002, that contains hemp or one or more hemp-derived cannabinoids, including cannabidiol or cannabigerol.

(8-a) "Minor" means a person under 21 years of age.

SECTION 3. Chapter 443, Health and Safety Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. NONAPPLICABILITY

Sec. 443.021. LOW-THC CANNABIS. This chapter does not apply to low-THC cannabis regulated under Chapter 487.

Sec. 443.022. RESEARCH. This chapter does not apply to research on hemp conducted by:

(1) a medical school, as defined by Section 61.501, Education Code;

(2) a hospital licensed under Chapter 241; or

(3) an institution of higher education or private or independent institution of higher education, as defined by Section 61.003, Education Code.

Sec. 443.023. FEDERAL DESIGNATION. Other than Subchapters A and B, this chapter does not apply to a consumable hemp product if all of the hemp ingredients of the consumable hemp product are one or more of the following hemp seed-derived ingredients generally recognized as safe (GRAS) by the United States Food and Drug Administration for use in food:

(1) hulled hemp seed;

(2) hemp seed protein powder; or

(3) hemp seed oil.

Sec. 443.024. MEDICAL PRESCRIPTION. This chapter does not apply to a prescription drug or device, as defined by Section 551.003, Occupations Code.

Sec. 443.025. CULTIVATION OF HEMP. This chapter does not apply to the cultivation of hemp regulated under Chapter 122, Agriculture Code.

Sec. 443.026. TRANSPORTATION OF HEMP. This chapter does

1 not apply to the transportation of hemp regulated under Chapter
2 122, Agriculture Code.

3 Sec. 443.027. NONCONSUMABLE HEMP PRODUCTS. This chapter
4 does not apply to the manufacturing of a nonconsumable hemp product
5 regulated under Chapter 122, Agriculture Code.

6 SECTION 4. Section 443.051, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 443.051. RULEMAKING AUTHORITY OF EXECUTIVE
9 COMMISSIONER. The executive commissioner shall adopt rules and
10 procedures necessary to administer and enforce this chapter. Rules
11 and procedures adopted under this section must be at least as
12 stringent as ~~[consistent with]~~:

13 (1) an approved state plan submitted to the United
14 States Department of Agriculture under Chapter 121, Agriculture
15 Code; and

16 (2) 7 U.S.C. Chapter 38, Subchapter VII, and federal
17 regulations and guidelines adopted under that subchapter.

18 SECTION 5. Subchapter C, Chapter 443, Health and Safety
19 Code, is amended by adding Section 443.1035 to read as follows:

20 Sec. 443.1035. LICENSING FEES. (a) An applicant for a
21 license under this subchapter shall pay an initial licensing fee to
22 the department in the amount of \$10,000 for each location where the
23 applicant intends to process hemp or manufacture a consumable hemp
24 product.

25 (b) Before the department may renew a license as provided by
26 Section 443.104, a license holder shall pay a renewal fee to the
27 department in the amount of \$10,000 for each location where the

applicant intends to process hemp or manufacture a consumable hemp product.

SECTION 6. Section 443.104(b), Health and Safety Code, is amended to read as follows:

(b) The department shall renew a license if the license holder:

(1) is not ineligible to hold the license under Section 443.102;

(2) has not violated this chapter or a rule adopted under this chapter;

(3) submits to the department any license renewal fee; and

(4) ~~[(3)]~~ does not owe any outstanding fees to the department.

SECTION 7. Subchapter C, Chapter 443, Health and Safety Code, is amended by adding Section 443.106 to read as follows:

Sec. 443.106. RESTRICTION ON MANUFACTURE OF CERTAIN CONSUMABLE HEMP PRODUCTS. A license holder may not manufacture a consumable hemp product that contains any amount of a cannabinoid other than cannabidiol or cannabigerol.

SECTION 8. Section 443.151, Health and Safety Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (d-1) and (d-2) to read as follows:

(a) A consumable hemp product must be tested as provided by~~+~~

~~[(1)]~~ Subsections (b), ~~[and]~~ (c), and~~[, or~~

~~[(2) Subsection]~~ (d).

(b) Before a hemp plant is processed or otherwise used in the manufacture of a consumable hemp product, a sample representing the plant must be tested, as required by the executive commissioner, to determine:

(1) the concentration and identity of the ~~[various]~~ cannabinoids in the plant; and

(2) the presence or quantity of heavy metals, pesticides, microbial contamination, and any other substance prescribed by the department.

(d) Before ~~[Except as otherwise provided by Subsection (e), before]~~ a consumable hemp product is sold at retail or otherwise introduced into commerce in this state, a sample representing the hemp product must be tested:

(1) by a laboratory that is:

(A) located in this state;

(B) registered with the United States Drug Enforcement Administration; and

(C) accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard to determine the identity and ~~[delta-9 tetrahydrocannabinol]~~ concentration of any cannabinoids contained in the product; and

(2) by an appropriate laboratory to determine that the product does not contain a substance described by Subsection (b)(2) ~~[(b)]~~ or (c) in a quantity prohibited for purposes of those subsections.

(d-1) The testing required under Subsection (d) must use

post-decarboxylation, high-performance gas chromatography, high-performance liquid chromatography, or a similar method, provided that any testing method accounts for the conversion of tetrahydrocannabinolic acid into tetrahydrocannabinol to determine the total tetrahydrocannabinol concentration in a tested product.

(d-2) A person that tests a consumable hemp product under Subsection (d) shall report the test results to the department in the form and manner required by the department.

SECTION 9. Sections 443.152(a) and (c), Health and Safety Code, are amended to read as follows:

(a) A consumable hemp product that contains any amount of a cannabinoid other than cannabidiol or cannabigerol ~~[has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent]~~ may not be sold at retail or otherwise introduced into commerce in this state.

(c) A license holder shall make available to a seller of a consumable hemp product processed or manufactured by the license holder the results of testing required by Section 443.151. The results may accompany a shipment to the seller or be made available to the seller electronically. If the results are not able to be made available, the seller may have the testing required under Section 443.151 performed on the product and shall make the results available to a consumer and the department.

SECTION 10. The heading to Section 443.2025, Health and Safety Code, is amended to read as follows:

Sec. 443.2025. REGISTRATION REQUIRED FOR RETAILERS OF CERTAIN CONSUMABLE HEMP PRODUCTS.

SECTION 11. Section 443.2025, Health and Safety Code, is amended by amending Subsections (b), (d), and (f) and adding Subsections (h), (i), and (j) to read as follows:

(b) A person may not sell consumable hemp products containing a cannabinoid ~~[cannabidiol]~~ at retail in this state unless the person registers with the department each location owned, operated, or controlled by the person at which those products are sold. A person is not required to register a location associated with an employee ~~[or independent contractor]~~ described by Subsection (d).

(d) A person is not required to register with the department under Subsection (b) if the person is ~~[+~~

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

(f) The owner of a location at which consumable hemp products are sold shall annually pay to the department a registration fee in the amount of \$20,000 for each location owned by the person at which those products are sold ~~[The department by rule may adopt a registration fee schedule that establishes reasonable fee amounts for the registration of:~~

~~[(1) a single location at which consumable hemp products containing cannabidiol are sold, and~~

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

(h) A person may not sell consumable hemp products unless

the person has provided to the department written consent from the person or the property owner, if the person is not the property owner, allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where consumable hemp products are sold to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter.

(i) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:

(1) hold a registration with the department under this section; or

(2) be a governing person of a business entity registered with the department under this section.

(j) The department shall revoke a registration under this section if the registrant is convicted of a felony relating to a controlled substance under federal law or the law of any state.

SECTION 12. Subchapter E, Chapter 443, Health and Safety Code, is amended by adding Section 443.2026 to read as follows:

Sec. 443.2026. CONSUMABLE HEMP PRODUCT REGISTRATION. (a) A consumable hemp product may not be offered for sale in this state unless the manufacturer of the product, before offering the product for sale to a person or retailer:

(1) submits an application for the consumable hemp product to be registered with the department; and

(2) receives approval that the product is compliant

1 with this chapter, registered, and approved for sale in this state.

2 (b) The department shall issue a unique product
3 registration number to each consumable hemp product approved by the
4 department.

5 (c) A manufacturer applying to register a consumable hemp
6 product under this section shall pay an application fee to the
7 department in the amount of \$500 for each consumable hemp product.

8 (d) The department shall maintain an updated product
9 registration list on the department's public Internet website,
10 which must include front and back identifying pictures of each
11 registered product.

12 (e) Each consumable hemp product, including the container
13 and package, if applicable, must be labeled with:

14 (1) a QR code that links:

15 (A) to the department's product registration
16 list under Subsection (d); and

17 (B) to the identifying picture of the product
18 provided on registration of the product with the department under
19 Subsection (d) for the purpose of confirming registration of the
20 product and allowing verification of the product by law
21 enforcement; and

22 (2) the following message placed adjacent to the
23 required QR code on the label: "SCAN QR CODE BEFORE PURCHASE".

24 (f) The department may not approve for sale a consumable
25 hemp product that:

26 (1) contains any artificial or synthetic
27 cannabinoids; or

1 (2) contains, is mixed with, or is marketed as
2 containing or being mixed with any alcohol, tobacco, nicotine,
3 kratom, kava, mushrooms, tianeptine, or a derivative of any of
4 those substances.

5 (g) A person commits an offense if the person distributes,
6 delivers, sells, purchases, possesses, or uses a consumable hemp
7 product that is not registered with the department as provided by
8 this section.

9 (h) An offense under this section is a Class B misdemeanor.

10 (i) A person is presumed to know a consumable hemp product
11 is prohibited under this chapter if the product is not listed on the
12 department's Internet website as required by Subsection (d) or does
13 not have a valid QR code under Subsection (e).

14 (j) The executive commissioner shall adopt rules to
15 implement and administer this section.

16 SECTION 13. Section 443.203, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 443.203. DECEPTIVE TRADE PRACTICE. (a) A person who
19 sells, offers for sale, or distributes a consumable hemp product
20 ~~[cannabinoid oil, including cannabidiol oil,~~ that the person
21 claims is processed or manufactured in compliance with this chapter
22 commits a false, misleading, or deceptive act or practice
23 actionable under Subchapter E, Chapter 17, Business & Commerce
24 Code, if the product ~~[oil]~~ is not processed or manufactured in
25 accordance with this chapter.

26 (b) A person who sells, offers for sale, or distributes a
27 consumable hemp product ~~[cannabinoid oil]~~ commits a false,

misleading, or deceptive act or practice actionable under Subchapter E, Chapter 17, Business & Commerce Code, if ~~[the oil]~~:

- (1) the product contains harmful ingredients;
- (2) the product is not produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; ~~[or]~~
- (3) the product contains any amount of a cannabinoid other than cannabidiol or cannabigerol; or
- (4) the product's packaging or advertising indicates that the product is for medical use ~~[has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent]~~.

SECTION 14. Section 443.204, Health and Safety Code, is amended to read as follows:

Sec. 443.204. RULES RELATED TO ~~[SALE OF]~~ CONSUMABLE HEMP PRODUCTS. Rules adopted by the executive commissioner regulating ~~[the sale of]~~ consumable hemp products must be at least as stringent as ~~[to the extent allowable by]~~ federal law and must reflect the following principles:

- (1) ~~[hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants,~~
- ~~[(2) products containing one or more hemp-derived cannabinoids, such as cannabidiol, intended for ingestion are considered foods, not controlled substances or adulterated products,~~
- ~~[(3)]~~ consumable hemp products must be packaged and labeled in the manner provided by Section 443.205; and
- (2) ~~[(4)]~~ the processing, ~~[or]~~ manufacturing, or

1 retail sale of a consumable hemp product for smoking is prohibited.

2 SECTION 15. Sections 443.205(a) and (c), Health and Safety
3 Code, are amended to read as follows:

4 (a) Before a consumable hemp product that contains or is
5 marketed as containing ~~[more than trace amounts of]~~ cannabinoids
6 may be distributed or sold, the product must be:

7 (1) labeled in the manner provided by this subchapter,
8 including ~~[section with]~~ the following information:

9 (A) ~~[(1)]~~ batch identification number;

10 (B) ~~[(2)]~~ batch date;

11 (C) ~~[(3)]~~ product name;

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

15 (E) ~~[(5)]~~ the name of the product's
16 manufacturer;

17 (F) the amount of cannabidiol or cannabigerol in
18 each serving or unit of the product; ~~and~~

19 (G) ~~[(6)]~~ a certification that there is no
20 detectable amount of any cannabinoid other than cannabidiol or
21 cannabigerol in the product; and

22 (H) the cannabinoid concentration on a
23 dry-weight basis of each hemp-derived ingredient in the product;
24 and

25 (2) prepackaged or placed at the time of sale in
26 packaging or a container that is:

27 (A) tamper-evident;

1 (B) child-resistant; and

2 (C) if the product contains multiple servings or
3 consists of multiple products purchased in one transaction,
4 resealable in a manner that allows the child-resistant mechanism to
5 remain intact ~~[the delta-9 tetrahydrocannabinol concentration of~~
6 ~~the product or each hemp-derived ingredient of the product is not~~
7 ~~more than 0.3 percent]~~.

8 (c) The label required by Subsection (a) must appear on the
9 outer packaging of each unit of the product intended for individual
10 retail sale. ~~[If that unit includes inner and outer packaging, the~~
11 ~~label may appear on any of that packaging.]~~

12 SECTION 16. Subchapter E, Chapter 443, Health and Safety
13 Code, is amended by adding Sections 443.2054, 443.2055, and
14 443.2056 to read as follows:

15 Sec. 443.2054. PROHIBITED DISPLAY OF CONSUMABLE HEMP
16 PRODUCTS. The owner of a store in which consumable hemp products
17 are sold, or an employee of the owner, may not display consumable
18 hemp products for sale adjacent to products that are legal for
19 minors to consume.

20 Sec. 443.2055. OFFENSE: MARKETING OR PACKAGING OF
21 CONSUMABLE HEMP PRODUCT IN MANNER ATTRACTIVE TO MINORS. (a) A
22 person commits an offense if the person markets, advertises, sells,
23 or causes to be sold a consumable hemp product containing a
24 hemp-derived cannabinoid that:

25 (1) is in the shape of a human, animal, fruit, or
26 cartoon or in another shape that is attractive to minors; or

27 (2) is in packaging or a container that:

1 (A) is in the shape of a human, animal, fruit, or
2 cartoon or in another shape that is attractive to minors;

3 (B) depicts an image of a human, animal, fruit,
4 or cartoon or another image that is attractive to minors;

5 (C) imitates or mimics trademarks or trade dress
6 of products that are or have been primarily marketed to minors;

7 (D) includes a symbol that is primarily used to
8 market products to minors;

9 (E) includes an image or a name of a celebrity; or

10 (F) includes an image that resembles a food
11 product, including candy or juice.

12 (b) In this section, a cartoon includes a depiction of an
13 object, person, animal, creature, or any similar caricature that:

14 (1) uses comically exaggerated features and
15 attributes;

16 (2) assigns human characteristics to animals, plants,
17 or other objects; or

18 (3) has unnatural or extra-human abilities, such as
19 imperviousness to pain or injury, x-ray vision, tunneling at very
20 high speeds, or transformation.

21 (c) An offense under this section is a Class A misdemeanor.

22 Sec. 443.2056. OFFENSE: MISLEADING CONSUMABLE HEMP
23 PACKAGING. (a) A person commits an offense if the person sells or
24 offers for sale a consumable hemp product that contains or is
25 marketed as containing hemp-derived cannabinoids in a package that
26 depicts any statement, artwork, or design that would likely mislead
27 a person to believe:

1 (1) the package does not contain a hemp-derived
2 cannabinoid; or

3 (2) the product is intended for medical use, including
4 by depicting a green cross.

5 (b) An offense under this section is a Class A misdemeanor.

6 SECTION 17. Section 443.206, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 443.206. RETAIL SALE OF OUT-OF-STATE CONSUMABLE HEMP
9 PRODUCTS. Retail sales of consumable hemp products processed or
10 manufactured outside of this state may be made in this state when
11 the products were processed or manufactured in another state or
12 jurisdiction if the products:

13 (1) were manufactured or processed in compliance with:

14 (A) [~~(1)~~] that state's [~~state~~] or jurisdiction's
15 plan approved by the United States Department of Agriculture under
16 7 U.S.C. Section 1639p;

17 (B) [~~(2)~~] a plan established under 7 U.S.C.
18 Section 1639q if that plan applies to the state or jurisdiction; or

19 (C) [~~(3)~~] the laws of that state or jurisdiction
20 if the products are tested in accordance with[~~, or in a manner~~
21 ~~similar to,~~ Section 443.151;

22 (2) do not contain any amount of a cannabinoid other
23 than cannabidiol or cannabigerol;

24 (3) are tested, packaged, and labeled in the manner
25 provided by this subchapter;

26 (4) are registered under Section 443.2026; and

27 (5) are not prohibited for introduction into

1 interstate commerce under the Federal Food, Drug, and Cosmetic Act
2 (21 U.S.C. Section 301 et seq.) and federal regulations and
3 guidelines adopted under that Act.

4 SECTION 18. Section 443.207, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 443.207. TRANSPORTATION AND EXPORTATION OF CONSUMABLE
7 HEMP PRODUCTS OUT OF STATE. (a) Consumable hemp products may be
8 legally transported across state lines and exported to foreign
9 jurisdictions in a manner that is consistent with federal law and
10 the laws of respective foreign jurisdictions, provided the
11 consumable hemp products are not prohibited for introduction into
12 interstate commerce under the Federal Food, Drug, and Cosmetic Act
13 (21 U.S.C. Section 301 et seq.) and federal regulations and
14 guidelines adopted under that Act.

15 (b) To the extent of a conflict between a provision of this
16 chapter and a provision of federal law involving interstate
17 transportation of consumable hemp products, including a United
18 States Food and Drug Administration regulation, federal law
19 controls and conflicting provisions of this chapter do not apply.

20 SECTION 19. Chapter 443, Health and Safety Code, is amended
21 by adding Subchapters F and G to read as follows:

22 SUBCHAPTER F. CRIMINAL OFFENSES

23 Sec. 443.251. OFFENSE: MANUFACTURE, DELIVERY, OR
24 POSSESSION WITH INTENT TO DELIVER OF CERTAIN CONSUMABLE HEMP
25 PRODUCTS. (a) A person commits an offense if the person knowingly
26 manufactures, delivers, or possesses with intent to deliver a
27 consumable hemp product that contains any amount of a cannabinoid

1 other than cannabidiol or cannabigerol.

2 (b) An offense under this section is a felony of the third
3 degree.

4 (c) If conduct constituting an offense under this section
5 also constitutes an offense under another law, the actor may be
6 prosecuted under this section, the other law, or both.

7 Sec. 443.252. OFFENSE: POSSESSION OF CERTAIN CONSUMABLE
8 HEMP PRODUCTS. (a) A person commits an offense if the person
9 knowingly or intentionally possesses a consumable hemp product that
10 contains any amount of a cannabinoid other than cannabidiol or
11 cannabigerol.

12 (b) It is a defense to prosecution under this section that
13 the actor:

14 (1) requested emergency medical assistance in
15 response to the person's own possible overdose or the possible
16 overdose of another person; and

17 (2) if the person requested emergency medical
18 assistance for the possible overdose of another person:

19 (A) remained on the scene until medical
20 assistance arrived; and

21 (B) cooperated with medical assistance and law
22 enforcement personnel on the scene.

23 (c) An offense under this section is a Class C misdemeanor,
24 except that if it is shown on the trial of the offense that at the
25 time of the offense the actor has been previously convicted of an
26 offense under this section two or more times, the offense is a
27 misdemeanor punishable by:

1 (1) a fine of not less than \$250 and not more than
2 \$2,000;

3 (2) confinement in jail for a term not to exceed 180
4 days; or

5 (3) both the fine and the confinement.

6 (d) The court shall order:

7 (1) a person placed on deferred disposition for or
8 convicted of an offense under this section to:

9 (A) perform community service for:

10 (i) not less than 8 or more than 12 hours if
11 the person has not been previously convicted of an offense under
12 this section; or

13 (ii) not less than 20 or more than 40 hours
14 if the person has been previously convicted of an offense under this
15 section; and

16 (B) successfully complete a substance misuse
17 education program under Section 521.374(a)(1), Transportation
18 Code, that is regulated by the Texas Department of Licensing and
19 Regulation under Chapter 171, Government Code; and

20 (2) the Department of Public Safety to suspend the
21 driver's license or permit of a person convicted of an offense under
22 this section or, if the person does not have a driver's license or
23 permit, to deny the issuance of a driver's license or permit for:

24 (A) 30 days, if the person has not been
25 previously convicted of an offense under this section;

26 (B) 60 days, if the person has been previously
27 convicted once of an offense under this section; or

1 (C) 180 days, if the person has been previously
2 convicted twice or more of an offense under this section.

3 (e) A driver's license suspension under Subsection (d)(2)
4 takes effect on the 11th day after the date the person is convicted.

5 (f) A person who has been previously convicted of an offense
6 under this section two or more times is not eligible to receive
7 deferred disposition or deferred adjudication for an offense under
8 this section.

9 (g) Community service ordered under Subsection (d) must be
10 related to education about or prevention of misuse of drugs if a
11 program or service providing that education or prevention is
12 available in the county in which the court is located. If a program
13 or service providing that education or prevention is not available
14 in the county, the court may order community service appropriate
15 for rehabilitative purposes. The education program under
16 Subsection (d)(1)(B) is in addition to community service ordered
17 under this section.

18 (h) For the purpose of determining whether a person has been
19 previously convicted of an offense under this section:

20 (1) an adjudication under Title 3, Family Code, that
21 the person engaged in conduct described by this section is
22 considered a conviction of an offense under this section; and

23 (2) an order of deferred disposition for an offense
24 alleged under this section is considered a conviction of an offense
25 under this section.

26 (i) If conduct constituting an offense under this section
27 also constitutes an offense under another law, the actor may be

1 prosecuted under this section, the other law, or both.

2 Sec. 443.253. OFFENSE: SALE OR DISTRIBUTION OF CERTAIN
3 CONSUMABLE HEMP PRODUCTS TO PERSONS YOUNGER THAN 21 YEARS OF AGE;
4 PROOF OF AGE REQUIRED. (a) A person commits an offense if the
5 person, with criminal negligence, sells a consumable hemp product
6 that contains or is marketed as containing hemp-derived
7 cannabinoids to a person who is younger than 21 years of age.

8 (b) An employee of the owner of a store in which consumable
9 hemp products that contain or are marketed as containing
10 hemp-derived cannabinoids are sold at retail is criminally
11 responsible and subject to prosecution for an offense under this
12 section that occurs in connection with a sale by the employee.

13 (c) An offense under this section is a Class A misdemeanor.

14 (d) It is a defense to prosecution under Subsection (a) that
15 the person to whom the consumable hemp product was sold presented to
16 the defendant apparently valid proof of identification.

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

25 Sec. 443.254. OFFENSE: MANUFACTURE, DISTRIBUTION, OR SALE
26 OF CONSUMABLE HEMP PRODUCTS FOR SMOKING. (a) A person commits an
27 offense if the person manufactures, distributes, sells, or offers

1 for sale a consumable hemp product for smoking.

2 (b) An offense under this section is a Class B misdemeanor.

3 Sec. 443.255. OFFENSE: SALE OR DELIVERY OF CERTAIN
4 CONSUMABLE HEMP PRODUCTS NEAR SCHOOL. (a) In this section,
5 "school" and "premises" have the meanings assigned by Section
6 481.134.

7 (b) A person commits an offense if the person sells, offers
8 for sale, or delivers a consumable hemp product containing a
9 hemp-derived cannabinoid in, on, or within 1,000 feet of the
10 premises of a school.

11 (c) An offense under this section is a Class B misdemeanor.

12 Sec. 443.256. OFFENSE: PROVISION OF CERTAIN CONSUMABLE HEMP
13 PRODUCT BY COURIER, DELIVERY, OR MAIL SERVICE. (a) A person
14 commits an offense if the person provides a consumable hemp product
15 that contains any amount of a cannabinoid other than cannabidiol or
16 cannabigerol by courier, delivery, or mail service.

17 (b) An offense under this section is a Class A misdemeanor.

18 Sec. 443.257. OFFENSE: FALSE LABORATORY REPORT. (a) A
19 person commits an offense if the person, with the intent to deceive,
20 forges, falsifies, or alters the results of a laboratory test
21 authorized or required by this chapter.

22 (b) An offense under this section is a felony of the third
23 degree.

24 Sec. 443.258. OFFENSE: MANUFACTURING OR SELLING WITHOUT
25 LICENSE OR REGISTRATION. (a) A person commits an offense if the
26 person:

27 (1) processes hemp or manufactures a consumable hemp

product without a license issued under Subchapter C; or

(2) sells at retail or offers for sale at retail a consumable hemp product without registering as a retailer under Section 443.2025.

(b) An offense under this section is a felony of the third degree.

SUBCHAPTER G. ADMINISTRATIVE ENFORCEMENT

Sec. 443.301. ENFORCEMENT BY DEPARTMENT. (a) The department shall receive and investigate complaints concerning violations of this chapter by:

(1) a license holder under Subchapter C; or

(2) a registrant under Section 443.2025.

(b) The department may revoke, suspend, or refuse to renew a license or registration for a violation of this chapter or a rule adopted under this chapter.

(c) The department may impose an administrative penalty in an amount not to exceed \$10,000 against a license holder or registrant for each violation of this chapter or a rule adopted under this chapter.

(d) A proceeding under this section is a contested case under Chapter 2001, Government Code.

SECTION 20. The following provisions of the Health and Safety Code are repealed:

(1) Section 443.151(e);

(2) Sections 443.201 and 443.202; and

(3) Sections 443.2025(a) and (c).

SECTION 21. Not later than February 1, 2026, the executive

1 commissioner of the Health and Human Services Commission shall
2 adopt the rules required by Section 443.2026, Health and Safety
3 Code, as added by this Act.

4 SECTION 22. (a) Except as otherwise provided by Subsection
5 (b) of this section, the changes in law made by this Act apply to the
6 manufacture, sale, delivery, display, or possession of a consumable
7 hemp product that occurs on or after the effective date of this Act.
8 The manufacture, sale, delivery, display, or possession of a
9 consumable hemp product that occurs before the effective date of
10 this Act is governed by the law in effect on the date the
11 manufacture, sale, delivery, display, or possession occurred and
12 the former law is continued in effect for that purpose.

13 (b) A person selling consumable hemp products on the
14 effective date of this Act is not required to register a product
15 under Section 443.2026, Health and Safety Code, as added by this
16 Act, before March 1, 2026.

17 SECTION 23. It is the intent of the legislature that every
18 provision, section, subsection, sentence, clause, phrase, or word
19 in this Act, and every application of the provisions in this Act to
20 every person, group of persons, or circumstances, is severable from
21 each other. If any application of any provision in this Act to any
22 person, group of persons, or circumstances is found by a court to be
23 invalid for any reason, the remaining applications of that
24 provision to all other persons and circumstances shall be severed
25 and may not be affected.

26 SECTION 24. This Act takes effect on the 91st day after the
27 last day of the legislative session.