

## **BILL ANALYSIS**

C.S.S.B. 3  
By: Perry  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to testimony at hearings of the House State Affairs Committee, certain products derived from hemp have the potential to cause serious physical and mental health problems. The bill sponsor has informed the committee that, despite this fact, the annual market for such products in Texas has grown to billions of dollars without a regulatory scheme commensurate with the potential dangers that the products pose. Accordingly, C.S.S.B. 3 seeks to protect Texans, especially children and young adults, from the potentially dangerous effects of products derived from hemp by, among other things, banning certain such products and creating a comprehensive regulatory framework.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTIONS 11, 27, 46, 48, and 77 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Department of State Health Services in SECTION 85 of this bill effective September 1, 2025, but expiring on January 1, 2027, and that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 85 of this bill effective January 1, 2027.

## **ANALYSIS**

### **In General**

C.S.S.B. 3 amends the Agriculture Code, Alcoholic Beverage Code, Election Code, Government Code, Health and Safety Code, Occupations Code, Tax Code, and Transportation Code to provide for the regulation of products derived from hemp, including consumable hemp products and hemp beverages and the hemp-derived cannabinoids contained in those products.

C.S.S.B. 3 grants regulatory authority over hemp beverages to the Texas Alcoholic Beverage Commission (TABC) under a new statutory framework, repeals the existing statutory framework by which the Department of State Health Services (DSHS) regulates the manufacture, distribution, and sale of consumable hemp products, and initially grants regulatory authority over consumable hemp products under a new statutory framework to DSHS. However, the bill provides for the subsequent transfer of the latter grant of regulatory authority to TABC.

C.S.S.B. 3 requires TABC and DSHS to adopt rules as applicably required by the bill's provisions as soon as practicable after the bill's effective date.

### **Repealed Provision: Manufacture, Distribution, and Sale of Consumable Hemp Products**

C.S.S.B. 3, effective January 1, 2027, repeals Health and Safety Code provisions relating to the regulation of the manufacture, distribution, and sale of consumable hemp products that provide for the following:

- general provisions applicable to such regulation;
- power and duties of DSHS with respect to such regulation;
- licensing of a person to process hemp or manufacture a consumable hemp product;
- testing of consumable hemp products; and
- retail sale of consumable hemp products.

The bill, effective September 1, 2025, authorizes a person holding a license, permit, or registration issued under those Health and Safety Code provisions to continue to operate under that license, permit, or registration until that license, permit, or registration expires. The bill prohibits DSHS from renewing a license, permit, or registration unless it complies with the bill's provisions establishing the new regulatory framework applicable to consumable hemp products.

### **Procedural Provision: Transferring Regulatory Authority of Consumable Hemp Products From DSHS to TABC**

C.S.S.B. 3 establishes that, on January 1, 2027, the following are transferred from DSHS to TABC:

- the powers, duties, and functions of DSHS under the bill's provisions relating to consumable hemp products; and
- all property and records in the custody of DSHS that are related to a power, duty, or function transferred under the bill and all funds appropriated by the legislature for that power, duty, or function.

The bill establishes that a rule, form, policy, procedure, or decision of DSHS related to a power, duty, or function transferred under the bill's provisions continues in effect as a rule, form, policy, procedure, or decision of TABC and remains in effect until amended or replaced by that agency. The bill authorizes TABC, beginning September 1, 2025, to propose rules, forms, policies, and procedures related to a function to be transferred to TABC under the bill's provisions.

### **Consumable Hemp Products**

C.S.S.B. 3 amends the Alcoholic Beverage Code to set out a new title in the code comprising provisions establishing the following new statutory framework for the regulation of consumable hemp products. The rulemaking authority applicable to this new title that is granted to DSHS is effective September 1, 2025, and expires on January 1, 2027. The rulemaking authority applicable to this new title that is granted to the Texas Alcoholic Beverage Commission is effective January 1, 2027, on expiration of the DSHS rulemaking authority.

#### General Provisions

##### *Definitions*

C.S.S.B. 3, effective September 1, 2025, defines the following terms:

- "batch" as a specific quantity of plant matter, raw materials, or processed product that is uniform and intended to meet specifications for identity, strength, purity, and composition;
- "converted cannabinoid" as a chemical substance purposely created by converting a phytocannabinoid into a different compound that is intended to mimic a phytocannabinoid or to interact with the endocannabinoid system, except for delta-9 tetrahydrocannabinol, but not including a cannabinoid that is approved by DSHS;

- "hemp biomass" as the unrefined and unadulterated plant matter including flowers, leaves, and other parts of the plant *cannabis sativa* L. with a total tetrahydrocannabinol concentration of less than 0.3 percent by dry weight;
- "manufacture" has the meaning assigned by the Texas Food, Drug, and Cosmetic Act;
- "measure of uncertainty" as the parameter associated with the results of an analytical measurement characterizing the dispersion of the values that could reasonably be attributed to the quantity subjected to a testing measurement;
- "natural hemp flower" as unadulterated dried flower from the plant *cannabis sativa* L. with a total tetrahydrocannabinol concentration of less than 0.3 percent by dry weight;
- "phytocannabinoid" as a chemical substance:
  - created naturally by a plant of the species *cannabis sativa* L. that:
    - is separated from the plant by a mechanical or chemical extraction process; or
    - binds to or interacts with the cannabinoid receptors of the endocannabinoid system; or
  - produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst;
- "process" as to extract a component of hemp, including cannabidiol or another cannabinoid, that is:
  - sold as a consumable hemp product;
  - offered for sale as a consumable hemp product;
  - incorporated into a consumable hemp product; or
  - intended to be incorporated into a consumable hemp product;
- "QR code" as a quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to additional information;
- "synthetic cannabinoid" as a man-made chemical substance created by using chemical synthesis, chemical modification, chemical conversion, in-vitro biosynthesis, or bioconversion that is intended to mimic a phytocannabinoid or is intended to or able to interact with the endocannabinoid system, but not including delta-9 tetrahydrocannabinol produced through the conversion of naturally occurring hemp-derived cannabidiol;
- "total tetrahydrocannabinol concentration" as the value of tetrahydrocannabinol content determined after decarboxylation including delta-8, delta-9, delta-10, tetrahydrocannabinolic acid, and any other chemically similar isomer; and
- "work in progress" as hemp extract that is in the intermediate phase of processing and refinement and that is not intended for sale to a retailer or an ultimate consumer.

#### *Role of DSHS; Transition of Administrative Responsibility*

C.S.S.B. 3, effective September 1, 2025, establishes that a reference to "commission" in the bill's provisions relating to consumable hemp products means DSHS and a reference to "administrator" means the commissioner of state health services. These provisions expire January 1, 2027.

#### *Applicability of Other Law*

C.S.S.B. 3 makes the following provisions of the Alcoholic Beverage Code, unless expressly provided otherwise in the bill's provisions relating to consumable hemp products, inapplicable in the regulation of consumable hemp products or to a license issued under the bill's provisions relating to consumable hemp products:

- provisions relating to licenses and permits regarding alcoholic beverages;
- provisions relating to intra-industry relationships;
- provisions relating to citizenship requirements; and

- provisions relating to citizenship of a permittee, control of premises, and subterfuge ownership.

The bill makes the Texas Food, Drug, and Cosmetic Act applicable to a license holder and a consumable hemp product regulated under the bill's provisions relating to consumable hemp products but excepts a person who holds a license under Health and Safety Code provisions relating to the manufacture, distribution, and sale of consumable hemp products and is engaging in conduct within the scope of that license from applicability of that act's provisions requiring a person to hold a license as a food manufacturer or food wholesaler under that act.

#### *Possession, Transportation, and Sale of Consumable Hemp Products*

C.S.S.B. 3 authorizes a person to possess, transport, sell, or purchase a consumable hemp product only if the product is processed or manufactured in compliance with the bill's provisions relating to consumable hemp products.

#### *Low-THC Cannabis*

C.S.S.B. 3 makes the bill's provisions relating to consumable hemp products inapplicable to low-THC cannabis regulated under the Texas Compassionate-Use Act.

#### *Local Regulation Prohibited*

C.S.S.B. 3 prohibits a municipality, county, or other political subdivision of the state, except as provided by the bill's provisions relating to consumable hemp products or general Election Code provisions relating to the regulation of political funds and campaigns and relating to local option elections on the sale of alcoholic beverages, from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the processing of hemp, or the manufacturing, distribution, or sale of a consumable hemp product as authorized by the bill's provisions relating to consumable hemp products. The bill requires the holder of a license issued under the bill's provisions relating to consumable hemp products to comply with all applicable local rules, ordinances, orders, resolutions, or regulations, including those regarding health, safety, zoning, sanitation, and advertising, subject to the applicable prohibition against a regulation, charter, or ordinance promulgated by a state governmental entity imposing stricter standards on premises or businesses required to have a license or permit under the Alcoholic Beverage Code than those that are imposed on similar premises or businesses that are not required to have such a license or permit.

#### *Severability*

C.S.S.B. 3 establishes the following:

- a provision of the bill's provisions relating to consumable hemp products or its application to any person or circumstance is invalid if the secretary of the U.S. Department of Agriculture determines that the provision or application conflicts with federal law relating to hemp production and prevents the approval of the state hemp production plan submitted under the current Agriculture Code provisions; and
- the invalidity of a provision or application under this severability provision does not affect the other provisions or applications of the bill's provisions relating to consumable hemp products that can be given effect without the invalid provision or application, and to this end the bill's provisions relating to consumable hemp products are declared to be severable.

#### *Waiver of Requirements or Standards*

C.S.S.B. 3, in provisions that are effective on January 1, 2027, and that expire on May 28, 2027, authorizes the administrator of TABC by order to waive or modify a requirement or standard of the Alcoholic Beverage Code as it applies to consumable hemp products or hemp beverages and

a licensee or permittee that manufactures, distributes, or sells consumable hemp products or hemp beverages if the administrator determines that the waiver or modification meets the following criteria:

- is necessary or advisable for the efficient operation of the hemp industry in Texas;
- will not negatively impact the public health, safety, or welfare of the people of Texas; and
- is in the best interests of the state.

The bill prohibits such a waiver or modification ordered by the administrator from extending past the last day of the regular session of the legislature that begins after the waiver or modification takes effect, prohibits the waiver or modification from being renewed, and prohibits a new substantially similar waiver or modification from being ordered.

### Testing of Consumable Hemp Products, Hemp Beverages, Hemp Biomass, and Natural Hemp Flower

#### *Effective Date of Testing Provisions*

The following provisions of the bill relating to testing of consumable hemp products, hemp beverages, hemp biomass, and natural hemp flower take effect September 1, 2025.

#### *Licensing of Hemp Testing Laboratories*

C.S.S.B. 3 requires a hemp testing laboratory to be licensed by DSHS under the bill's general provisions requiring licensing of applicable activities regarding consumable hemp products and requires a laboratory to meet the following criteria to be eligible for a hemp testing laboratory license:

- be accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable successor;
- be registered with the DEA; and
- be located in Texas.

The bill authorizes DSHS to issue a license to a hemp testing laboratory located in another state if the laboratory is licensed in the laboratory's home jurisdiction and posts a conduct surety bond as required under the bill's general licensing provisions relating to such a bond.

#### *License Number*

C.S.S.B. 3 requires DSHS to issue each licensed hemp testing laboratory a license number and requires the laboratory to put that license number on each certificate of analysis issued by the laboratory.

#### *Restrictions on Laboratory Ownership or Interest*

C.S.S.B. 3 prohibits a licensed hemp manufacturer, distributor, or retailer from doing the following:

- being an owner or manager of a hemp testing laboratory; and
- if a laboratory is publicly traded, having more than a 10 percent ownership interest in the laboratory.

#### *Rulemaking*

C.S.S.B. 3 requires DSHS to adopt rules addressing the following:

- acceptable testing practices, including testing standards, compliance with certified good manufacturing processes, quality control analyses, equipment certification and calibration, and chemical identification;

- an allowable variance rate for determining the amount or potency of tetrahydrocannabinols or other cannabinoids in natural hemp flower, hemp biomass, a consumable hemp product, or a hemp beverage;
- corrective measures, root cause analyses, quarantines of suspect batches, fair notice of unintentional or negligent violations, destruction of failed batches, documentation requirements, random hemp testing laboratory assurance checks, and data-driven quality assurance checks;
- the proper procedure and documentation for destruction of natural hemp flower or hemp biomass or of any extracts or manufactured product that testing shows may not be sold or introduced into commerce in Texas; and
- any other subject DSHS considers necessary to implement the bill's provisions relating to testing.

### *Testing Required*

C.S.S.B. 3 requires natural hemp flower, hemp biomass, a consumable hemp product, or a hemp beverage to be tested as provided by this bill provision. Accordingly, the bill requires a sample representing the natural hemp flower or biomass, before the flower or biomass is processed, sold, or otherwise used in the manufacture of a consumable hemp product or hemp beverage, to be tested, as required by DSHS, to determine the following:

- the presence and concentration of various cannabinoids;
- the presence and quantity of residual solvents, heavy metals, pesticides, harmful pathogens, and any other substance prescribed by DSHS rule; and
- that the sample contains acceptable levels of those described substances as set by DSHS rule.

C.S.S.B. 3 requires the tetrahydrocannabinol testing procedure for natural hemp flower or hemp biomass under these provisions to use post-decarboxylation or a similar method that includes the conversion of tetrahydrocannabinolic acid into delta-9 tetrahydrocannabinol as described by federal law relating to the domestic hemp production program. The bill requires material extracted from hemp by processing, other than work in progress and before that material is sold as or offered for sale as a consumable hemp product or hemp beverage, to be tested as required by DSHS to determine the following:

- the presence of harmful microorganisms; and
- the presence or quantity of:
  - any residual solvents used in processing, if applicable; and
  - any other substance prescribed by DSHS rule.

The bill requires a sample representing each batch of a consumable hemp product or hemp beverage, before that product or beverage is sold at retail or otherwise introduced into commerce in Texas, to be tested to determine that the product or beverage does not contain a substance described by these provisions in a prohibited quantity.

### *Provision of Test Results*

C.S.S.B. 3 requires a person licensed to cultivate hemp under the applicable Agriculture Code provisions to provide to a license holder who is processing hemp harvested by the person or otherwise using that hemp to manufacture a consumable hemp product or hemp beverage the results of a test conducted under those Agriculture Code provisions, if available, as proof that the total tetrahydrocannabinol concentration of the hemp does not exceed 0.3 percent. The bill requires a license holder to make available to a seller of a consumable hemp product or hemp beverage processed or manufactured by the license holder the results of testing required by the bill's provisions relating to the testing of consumable hemp products, hemp beverages, hemp biomass, and natural hemp flower. The results may accompany a shipment to the seller or be made available to the seller electronically. The bill authorizes the seller, if the results are not made available, to have the required testing performed on the product or beverage and requires the seller to make the results available to a consumer.

### *Sale or Introduction Into Commerce*

C.S.S.B. 3 prohibits natural hemp flower or hemp biomass that has a total tetrahydrocannabinol concentration of more than 0.3 percent by dry weight, subject to the measure of uncertainty, from being sold at retail or otherwise introduced into commerce in Texas. The bill prohibits a consumable hemp product or hemp beverage from being sold at retail or otherwise introduced into commerce in Texas if the tetrahydrocannabinol content exceeds the applicable limit established by the definition of "hemp beverage" as that term is defined by the bill's provisions relating to general provisions of the Alcoholic Beverage Code, by the bill's provisions relating to multi-serving hemp beverage containers, or by the bill's provisions relating to the total tetrahydrocannabinol limit for consumable hemp products.

### Regulation: General Licensing Provisions

#### *License Required*

C.S.S.B. 3 prohibits a person from doing the following without having first obtained an appropriate license as provided by the bill's provisions relating to consumable hemp products:

- testing, manufacturing, or processing consumable hemp products;
- importing, shipping, or transporting those products;
- distributing or selling those products; or
- possessing those products for the purpose of sale.

The bill requires each license holder to display the license at all times in a conspicuous place at the licensed place of business and establishes that a separate license is required, and a separate licensing fee must be paid, for each location at which a person is engaged in the consumable hemp product business under the bill's provisions relating to consumable hemp products. The bill authorizes an applicant to obtain a license only for a building or similar permanent structure that is adequate for the privileges conferred under the license and prohibits a person from using a license or exercising any privilege granted by the license except at the place, address, premises, or location for which the license is issued.

C.S.S.B. 3 requires a license holder to have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the manufacturing, processing, storing, possession, and sale of consumable hemp products purchased, stored, or sold on the licensed premises. The bill establishes the following:

- a device, scheme, or plan that surrenders control of the employees, premises, or business of the license holder to a person other than the license holder is unlawful;
- a license issued under the bill's provisions relating to consumable hemp products is a purely personal privilege and is subject to revocation or suspension as provided by those provisions; and
- a license issued under those provisions is not property, is not subject to execution, does not pass by descent or distribution, and expires on the death of the license holder.

#### *Application for License*

C.S.S.B. 3 authorizes a person to file an application for a license to test, manufacture, distribute, sell, carry, or deliver consumable hemp products as prescribed by DSHS. The bill authorizes DSHS to issue an original or renewal license or deny an application for an original or renewal license under the bill's provisions relating to licensing general provisions and requires the commissioner of state health services to do the following:

- on receipt of an application for a license under the bill's provisions relating to consumable hemp products, to evaluate the application;
- if after evaluating the license application the commissioner finds that all facts stated in the application are true and no legal ground to deny the application exists, to issue the license; and

- if after the evaluation of a license application the commissioner finds a legal ground to deny the application, to recommend to DSHS that the application be denied.

The bill authorizes the applicant, if the commissioner recommends denial of the application, to request a hearing be conducted under these provisions. Accordingly, the bill requires a hearing to be conducted by the State Office of Administrative Hearings (SOAH) and makes the Administrative Procedure Act applicable to such a hearing. The bill requires the administrative law judge, after the hearing, to make findings of fact and conclusions of law and promptly issue to DSHS a proposal for a decision on the application. The bill requires DSHS, based on those findings, conclusions, and proposal, to issue a final decision denying the application or issuing the license. The bill authorizes the applicant, if DSHS denies a permit application and after exhausting all administrative remedies, to appeal DSHS's decision to a district court in Travis County. The bill requires DSHS to adopt rules to implement the application review process and prohibits a person from testing, manufacturing, processing, distributing, importing, storing, carrying, delivering, or selling consumable hemp products during the pendency of the person's original license application.

#### *Contents of Application: Manufacturers*

C.S.S.B. 3 requires an application for a hemp manufacturer's license or an out-of-state manufacturer's license, in addition to any requirements imposed by the bill's provisions relating to general licensing provisions or by DSHS, to include the following:

- a legal description of each location where the applicant intends to process hemp or manufacture consumable hemp products; and
- a statement that the applicant understands and consents to inspections under applicable Alcoholic Beverage Code provisions.

#### *Contents of Application: Distributors*

C.S.S.B. 3 requires an application for a hemp distributor's license, in addition to any requirements imposed by the bill's provisions relating to general licensing provisions or by DSHS, to include the following:

- a legal description of each location where the applicant intends to possess, hold, or dispatch consumable hemp products; and
- a statement that the applicant understands and consents to inspections under applicable Alcoholic Beverage Code provisions.

#### *Contents of Application: Retailers*

C.S.S.B. 3 requires an application for a hemp retailer's license, in addition to any requirements imposed by the bill's provisions relating to general licensing provisions or by DSHS, to include the following:

- a legal description of the proposed retail premises; and
- a statement that the applicant understands and consents to inspections under applicable Alcoholic Beverage Code provisions.

#### *Appeal From Denial*

C.S.S.B. 3 establishes that, if a license is issued on the basis of a district court judgment and that judgment is reversed on appeal, the mandate of the appellate court automatically invalidates the license and the applicant is entitled to a proportionate refund of fees for the unexpired portion of the license. The bill authorizes DSHS to appropriate as much of the proceeds from license fees collected under the bill's provisions relating to consumable hemp products as necessary for the payment of those refunds. The bill requires a person appealing from an order denying a license to give bond for all costs incident to the appeal and requires that the person only be required to pay those costs if the judgment on appeal is unfavorable to the appellant. The bill establishes that a bond is not required on appeals filed on behalf of the state.



### *Certification of Wet or Dry Status for Consumable Hemp Products*

C.S.S.B. 3 requires the county clerk of the county in which a prospective applicant for a license issued by DSHS under the bill's provisions relating to consumable hemp products requests certification, not later than the 30th day after the date the request is made, to certify whether the location or address given in the request is in a wet area for consumable hemp products. The bill does the following:

- requires the city secretary or clerk of the city in which a prospective applicant for a license issued by DSHS under those provisions requests certification, not later than the 30th day after the date the request is made, to certify whether the location or address given in the request is in a wet area for consumable hemp products;
- conditions the eligibility of a license renewal, if the license is issued for a premises that is not in a wet area, based on a mistaken certification or otherwise, on a subsequent local option election that legalizes the sale of consumable hemp products in the territory where the premises is located;
- entitles a prospective applicant, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request is not in a wet area or refuses to issue the certification required by these provisions, to a hearing before the county judge to contest the certification or refusal to certify; and
- requires that applicant to submit a written request to the county judge for a hearing under these provisions and requires the county judge to conduct the hearing not later than the 30th day after the date the county judge receives the written request.

The foregoing provisions are expressly inapplicable to a prospective applicant for a hemp testing laboratory license.

### *Renewal Application*

C.S.S.B. 3 requires that an application to renew a license issued under the bill's provisions relating to consumable hemp products, as follows:

- be filed with DSHS not earlier than the 30th day before the date the license expires but not after it expires;
- be signed by the applicant;
- contain complete information required by rule showing that the applicant is not disqualified from holding a license; and
- be accompanied by the appropriate license fee.

The bill requires DSHS, when the renewal application has been filed in accordance with these provisions, to follow the procedures for reviewing a license application under the bill's provisions relating to application for a license.

### *Expiration of License*

C.S.S.B. 3 establishes that any license issued under the bill's provisions relating to consumable hemp products, except as provided by these provisions or another provision of the bill's provisions relating to consumable hemp products, expires on the second anniversary of the date on which it is issued. The bill authorizes DSHS to do the following:

- require by rule that the expiration date for an individual license holder's license is the first anniversary of the date on which the license is issued due to the license holder's violation history; and
- issue a license with an expiration date of less than two years after the date the license is issued to maintain a reasonable annual distribution of renewal application review work and license fees.

The bill requires DSHS, if DSHS issues a license with an expiration date of less than two years after the date the license is issued, to prorate the license fee on a monthly basis so the license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid.

### *License Not Assignable*

C.S.S.B. 3 prohibits a license holder from doing the following:

- assigning a license to another person; and
- consenting to or allowing the use or display of the license holder's license by a person other than the person to whom the license was issued.

### *Name of Business*

C.S.S.B. 3 prohibits a person from owning, wholly or partly, a business engaged in the processing, manufacture, transportation, distribution, importation, or sale of consumable hemp products under a name other than the name to which the license covering the person's place of business is issued.

### *Privileges Limited to Licensed Premises*

C.S.S.B. 3 prohibits a person licensed to sell consumable hemp products at retail, except as otherwise provided by the bill's provisions relating to consumable hemp products, from using or displaying a license or exercising a privilege granted by the license except at the licensed premises.

### *Agent for Service*

C.S.S.B. 3 requires each licensed hemp manufacturer, out-of-state hemp manufacturer, and hemp distributor, or person shipping or delivering consumable hemp products into Texas, to file a certificate with the secretary of state designating the name, street address, and business of the person's agent on whom process may be served. The bill authorizes service, if a certificate is not filed, to be had on the secretary of state in any cause of action arising out of a violation of the Alcoholic Beverage Code, and requires the secretary of state to send any citation served on the secretary by registered mail, return receipt requested, to the person for whom the citation is intended. The bill establishes that the receipt is prima facie evidence of service on the person.

### *Statement of Stock Ownership*

C.S.S.B. 3 authorizes DSHS at any time to require an officer of a corporation holding a license under the bill's provisions relating to consumable hemp products to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each owner, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

### *Change of Location*

C.S.S.B. 3 requires a license holder, if the license holder desires to change their place of business, to file an application to change location with DSHS. The bill prohibits an additional fee for the unexpired term of the license from being required for an application to change location.

### *Restriction on Consumption*

C.S.S.B. 3 prohibits a license holder from permitting consumable hemp products to be consumed on the licensed premises and exempts the holder of an on-premise hemp retailer's license from applicability of that prohibition.

### *Conduct Surety Bond*

C.S.S.B. 3 requires an applicant for or a holder of a license issued under the bill's provisions relating to consumable hemp products to file with DSHS a surety bond in the amount of \$5,000, conditioned on the applicant's or license holder's compliance with laws relating to consumable hemp products and narcotics. The bill establishes that this bond requirement is in addition to any other applicable bond requirement imposed by the Alcoholic Beverage Code. The bill requires an applicant for or a holder of a hemp testing laboratory license to file with DSHS a surety bond in the amount of \$25,000, conditioned on the applicant's or license holder's compliance with laws and regulations relating to hemp and the testing of hemp, consumable hemp products, and hemp beverages.

C.S.S.B. 3 requires a surety bond required under these provisions to contain the following statements on the face of the bond:

- that the license holder will not violate a law of the state relating to consumable hemp products, narcotics, or alcoholic beverages or a rule adopted by DSHS; and
- that the license holder agrees that the amount of the bond is required to be paid to the state if the license is revoked or on final adjudication that the license holder violated a provision of the Alcoholic Beverage Code, regardless of whether the actions of an employee of the license holder are attributable to the license holder under the bill's provisions relating to actions of an employee of a hemp retailer.

C.S.S.B. 3 requires DSHS to adopt rules relating to the form of a surety bond, the qualifications for a surety, the method for filing and obtaining approval of the bond by DSHS, and the release or discharge of the bond. The bill authorizes a license holder required to file a surety bond to furnish instead of all or part of the required bond amount one of the following:

- one or more certificates of deposit assigned to the state issued by a federally insured bank or savings institution authorized to do business in Texas; or
- one or more letters of credit issued by a federally insured bank or savings institution authorized to do business in Texas.

C.S.S.B. 3 exempts a license holder who has held a license for three years or more before the date the license holder applied for renewal of the license from the requirement to furnish a surety bond if the license holder, as follows:

- has not had a license or permit issued under the Alcoholic Beverage Code revoked in the five years immediately preceding the date the license holder applied for renewal of the license;
- is not the subject of a pending permit or license revocation proceeding; and
- has continuously operated on the licensed premises for three years or more immediately preceding the date the license holder applied for renewal of the license.

The bill exempts a license holder, if the license holder is exempt from furnishing a conduct surety bond under these provisions, from furnishing the bond at another location where the license holder applies for or holds a license.

### *Licensing Fees*

C.S.S.B. 3 establishes that a separate license fee is required for each place of business that manufactures, processes, imports, transports, distributes, delivers, or sells consumable hemp products and establishes that the fee for the issuance of an original or renewal license issued under the bill's provisions relating to consumable hemp products is as follows:

- \$3,000 for a hemp manufacturer's license;
- \$5,000 for an out-of-state hemp manufacturer's license;
- \$1,500 for a hemp distributor's license;
- \$2,000 for an off-premise hemp retailer's license;
- \$4,000 for an on-premise hemp retailer's license;

- \$1,100 for a hemp carrier's license; and
- \$10,000 for a hemp consumer delivery license.

The bill requires all license fees to be deposited as provided in a fund dedicated for the administration of hemp laws and requires each license application to be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for a license or on the account of a corporation that is an agent for the person applying for a license, a money order, or payment by credit card, charge card, or other electronic form of payment approved by DSHS rule for the amount of the fee, payable to the order of the comptroller of public accounts. The bill prohibits a license holder from obtaining a refund on the surrender or nonuse of a license except as provided by the bill's provisions relating to consumable hemp products and prohibits the executive commissioner from refunding a license fee except when an application for a license is denied by DSHS. The bill authorizes DSHS to appropriate as much of the proceeds from license fees as necessary for the payment of a refund under these provisions.

### *Mandatory Grounds for Denial*

C.S.S.B. 3 requires DSHS to deny an application for a license under the bill's provisions relating to consumable hemp products if DSHS has reasonable grounds to believe and finds that one of the following apply:

- the applicant is a minor;
- the applicant is indebted to the state for any taxes, fees, or penalties imposed by the Alcoholic Beverage Code or a rule adopted by DSHS;
- the place or manner in which the applicant may conduct the applicant's business warrants a denial of the application for a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public;
- the applicant is not a U.S. citizen or legal resident of the United States;
- the applicant was finally convicted of a felony during the five years immediately preceding the filing of the applicant's application;
- the applicant is not of good moral character or the applicant's reputation for being a peaceable, law-abiding citizen in the community where the applicant resides is bad;
- as to a corporation, it is not incorporated under the laws of the state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license;
- the applicant was finally convicted of a felony under the Texas Controlled Substances Act during the ten years immediately preceding the filing of the applicant's application; or
- granting the license would result in subterfuge ownership of the license or the licensed premises in violation of applicable bill provisions.

C.S.S.B. 3 requires DSHS to do the following:

- deny an application for an original hemp manufacturer's license or hemp retailer's license unless the applicant for the license files with the application a certificate issued by the comptroller stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit for the place of business for which the license is sought;
- deny for a period of one year an application for a hemp retailer's license for a premises where a license or permit issued under the Alcoholic Beverage Code has been canceled during the immediately preceding 12 months as a result of one of the following:
  - a shooting, stabbing, or other violent act; or
  - an offense involving drugs, prostitution, or trafficking of persons;

- deny an application for a license of a person convicted of an offense of unlawful display or use of a permit or license for a period of five years from the date of the conviction; and
- deny an application for an original or renewal license if DSHS has reasonable grounds to believe and finds that, during the three years immediately preceding the date the license application was filed, a license or permit previously held under the Alcoholic Beverage Code by the applicant, a person who owns the premises for which the license is sought, or an officer of a person who owns the premises for which the license is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

The bill establishes that "applicant" includes, as of the date of the application, each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

#### *Mandatory Grounds for Denial: Hemp Manufacturers*

C.S.S.B. 3 requires DSHS to deny an application for a hemp manufacturer's license or an out-of-state hemp manufacturer's license if DSHS has reasonable grounds to believe, and finds that the applicant has failed to state under oath, that it will engage in the business of manufacturing consumable hemp products within one year after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide manufacturer. The bill makes the license holder ineligible to renew, and authorizes DSHS to cancel, its license if it ceases to be a bona fide manufacturer.

#### *Discretionary Grounds for Denial*

C.S.S.B. 3 authorizes DSHS to deny an application for a license if DSHS has reasonable grounds to believe and finds that one of the following applies:

- the applicant has been finally convicted in a court of competent jurisdiction for the violation of a provision of the Alcoholic Beverage Code during the two years immediately preceding the filing of an application;
- the applicant has been finally convicted of a felony and the termination of which, by pardon or otherwise, occurred during the five-year period immediately preceding the filing of an application;
- the applicant has violated or caused to be violated a provision of the Alcoholic Beverage Code or a rule adopted under that code during the 12-month period immediately preceding the filing of an application;
- the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;
- before conducting any activity authorized by a license issued under the Alcoholic Beverage Code, the applicant does not have an adequate building available at the address for which the license is sought;
- the applicant or a person with whom the applicant is residually domiciled had an interest in a license or permit issued under the Alcoholic Beverage Code that was canceled or revoked within the 12-month period immediately preceding the filing of an application;
- the applicant will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law; or
- the place, building, or premises for which the license is sought was used for selling consumable hemp products, narcotic drugs, as defined by the Texas Controlled Substances Act, or alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or in violation of the Alcoholic Beverage Code.

The bill establishes that "applicant" includes, as of the date of the application, each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

### *Grounds for Cancellation or Suspension*

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services to suspend for not more than 60 days or cancel a license issued under the bill's provisions relating to consumable hemp products if it is found, after notice and hearing, that the license holder meets one of the following grounds for cancellation or suspension:

- violated a provision of the Alcoholic Beverage Code or a rule adopted under the bill's provisions relating to consumable hemp products during the existence of the license sought to be canceled or suspended or during the immediately preceding license period;
- was finally convicted for violating a penal provision of the Alcoholic Beverage Code;
- was finally convicted of a felony while holding a license;
- made a false statement or a misrepresentation in the license holder's application;
- sold, served, or delivered with criminal negligence a consumable hemp product or hemp beverage to a minor;
- sold, served, or delivered a consumable hemp product or hemp beverage to an intoxicated person;
- sold, served, or delivered a consumable hemp product or hemp beverage at a time when its sale was prohibited;
- possessed on the licensed premises, or on adjacent premises directly or indirectly under the license holder's control, a consumable hemp product not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so;
- employed a person under 21 years of age to sell, handle, or dispense consumable hemp products, or to assist in doing so, except as authorized under the bill's provisions relating to general hemp retailer provisions and relating to off-premise hemp retailer's licenses;
- conspired with a person to violate the bill's provisions relating to packaging, labeling, and advertising of consumable hemp products;
- refused to permit or interfered with an inspection or investigation of the licensed premises, vehicles, or records by an authorized representative of DSHS or a peace officer;
- permitted the use or display of the license holder's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;
- conducted the license holder's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- consumed a consumable hemp product or permitted one to be consumed on the licensed premises, except as authorized by the Alcoholic Beverage Code;
- purchased consumable hemp products for the purpose of resale from a person who is not authorized to sell the consumable hemp products for resale under the bill's provisions relating to consumable hemp products;
- acquired a consumable hemp product for the purpose of resale from a hemp retailer;
- manufactured, processed, purchased, imported, exported, sold, offered for sale, distributed, or delivered a consumable hemp product while the license holder's license was under suspension;
- purchased, possessed, stored, imported, distributed, sold, or offered for sale consumable hemp products in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;
- is insolvent or has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;
- imported consumable hemp products into Texas in violation of the bill's provisions relating to consumable hemp products;
- knowingly permitted a person who had an interest in a license that was canceled for cause to sell, handle, or assist in selling or handling consumable hemp products on the licensed premises within one year after the cancellation;

- is residentially domiciled with or related to a person whose license has been canceled within the preceding 12 months so that there is a community of interests that DSHS or the commissioner of state health services finds contrary to the purposes of the bill's provisions relating to consumable hemp products;
- failed to promptly report to DSHS a breach of the peace occurring on the license holder's licensed premises;
- often uses narcotic drugs, as that term is defined by the Texas Controlled Substances Act, or uses consumable hemp products or alcoholic beverages in excess;
- knowingly misrepresented to a customer or the public any consumable hemp product sold by the license holder;
- was intoxicated on the premises;
- failed to comply with a DSHS requirement relating to the keeping of records or making of reports;
- failed to pay any tax due to the state on any consumable hemp products;
- no longer holds a sales tax permit, if required, for the place of business covered by the license;
- is shown on the records of the comptroller as being subject to a final determination of taxes due and payable under the Limited Sales, Excise, and Use Tax Act, or is shown on the records of the comptroller as being subject to a final determination of taxes due and payable under the Municipal Sales and Use Tax Act; or
- gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for consumable hemp products that was not honored when presented for payment.

The bill makes these grounds for cancellation or suspension applicable to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock.

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services, without a hearing and for investigative purposes, to summarily suspend an off-premise hemp retailer's license or on-premise hemp retailer's license for not more than seven days if DSHS or the commissioner finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. The bill requires notice of the order suspending the license to be given to the license holder personally within 24 hours of the time the violent act occurs and, if the license holder cannot be located, requires notice to be provided by posting a copy of the order on the front door of the licensed premises. The bill requires the length of a suspension to be appropriate for the nature and seriousness of the violation and requires DSHS or the commissioner, in determining the length of a suspension, to consider the following factors:

- the type of license held;
- the type of violation;
- any aggravating or ameliorating circumstances concerning the violation; and
- the license holder's previous violations.

#### *Emergency Order Suspending License*

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services, if DSHS or the commissioner determines that the continued operation of a business licensed under the bill's provisions relating to consumable hemp products would constitute a continuing threat to the public welfare, to issue an emergency order, without a hearing, suspending the license for not more than 90 days. The bill requires such an order to state the length of the suspension in the order. The bill requires DSHS or the commissioner, if an emergency order is issued without a hearing, to set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued. The bill requires the hearing to affirm, modify, or set aside the emergency order to be conducted by SOAH and requires the order to be affirmed if the administrative law judge determines that reasonable cause existed to issue the order. The bill authorizes DSHS by rule to prescribe procedures for the determination and appeal of an

emergency order issued under these provisions, including a rule allowing DSHS to affirm, modify, or set aside a decision made by SOAH. The bill establishes that a proceeding under these provisions is a contested case under the Administrative Procedure Act.

#### *Cancellation for Improper Display or Use of License*

C.S.S.B. 3 requires DSHS or the commissioner of state health services to cancel a license issued under the bill's provisions relating to consumable hemp products if it is found, after notice and hearing, that the license holder was convicted of an offense of unlawful display or use of a permit or license.

#### *Cancellation of Permit or License in Certain Municipalities*

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services to cancel a license issued under the bill's provisions relating to consumable hemp products and authorizes DSHS to deny an application for any new license for the same premises for one year after the date of cancellation if the following conditions apply:

- the chief of police of the city or the sheriff of the county in which the premises is located submits a sworn statement to DSHS stating:
  - specific allegations that the place or manner in which the license holder conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and
  - that there is a reasonable likelihood that such conduct would continue at the same location under another license holder; and
- DSHS finds, after notice and hearing, that:
  - the place or manner in which the license holder conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community; and
  - there is a reasonable likelihood that such conduct would continue at the same location under another license holder.

The bill requires a hearing under these provisions to be conducted by SOAH.

#### *Suspension Instead of Cancellation*

C.S.S.B. 3 establishes that DSHS or the commissioner of state health services has the discretionary authority to suspend a license for not more than 60 days rather than to cancel the license when a cause for the cancellation of the license is prescribed by the bill's provisions relating to consumable hemp products.

#### *Alternatives to Suspension or Cancellation*

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services, in its discretion and when DSHS or the commissioner is authorized to suspend a license under the bill's provisions relating to consumable hemp products, to give the license holder the opportunity to pay a civil penalty rather than have the license suspended. The bill requires DSHS or the commissioner, in determining whether to give a license holder the opportunity to pay that civil penalty, to consider the following:

- the type of license held;
- the type of violation;
- any aggravating or ameliorating circumstances concerning the violation; and
- any past violations of the Alcoholic Beverage Code by the license holder.

C.S.S.B. 3 requires DSHS or the commissioner of state health services to do the following:

- determine the amount of the penalty, which may not be less than \$150 or more than \$25,000 for each day the license was to have been suspended; and



- if the license holder does not pay the penalty before the sixth day after DSHS or the commissioner notifies the license holder of the amount, impose the suspension.

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services, in the case of a violation of the Alcoholic Beverage Code by a license holder, to relax any provision of the bill's provisions regulating consumable hemp products relating to the suspension or cancellation of the license, assess a sanction DSHS or the commissioner finds just under the circumstances, and reinstate the license or permit at any time during the period of suspension on payment by the license holder of a fee of not less than \$75 nor more than \$500, if DSHS or the commissioner finds that any of the following circumstances exists:

- the violation could not reasonably have been prevented by the license holder by the exercise of due diligence;
- the license holder was entrapped;
- an agent, servant, or employee of the license holder violated the Alcoholic Beverage Code without the knowledge of the license holder;
- the license holder did not knowingly violate that code;
- the license holder has demonstrated good faith, including the taking of actions to rectify the consequences of the violation and to deter future violations; or
- the violation was a technical one.

C.S.S.B. 3 requires the amount of a civil penalty under these provisions to be appropriate for the nature and seriousness of the violation and requires DSHS or the commissioner of state health services, in determining that amount, to consider the following:

- the type of license held;
- the type of violation;
- any aggravating or ameliorating circumstances concerning the violation, including those enumerated under these provisions;
- the license holder's previous violations; and
- if DSHS or the commissioner determines the license holder has previously violated the Alcoholic Beverage Code, whether the license holder profited from the violation and, if so, the amount of the license holder's profit.

The bill requires any fees and civil penalties received by DSHS or the commissioner under these provisions to be deposited in the fund established under the bill's provisions relating to consumable hemp products tax distribution.

#### *Certain Acts Also Violations of Alcoholic Beverage Code*

C.S.S.B. 3 establishes that any act or omission which is a ground for cancellation or suspension of a license under the bill's provisions relating to consumable hemp products is also a violation of the Alcoholic Beverage Code, punishable as provided by statutory provisions relating to general penalty, except that the penalty for making a false statement in an application for a license or in a statement, report, or other instrument to be filed with DSHS is provided by statutory provisions relating to false statement.

#### *Violator Not Excused by Cancellation or Suspension*

C.S.S.B. 3 establishes that the cancellation or suspension of a license does not excuse the violator from the penalties provided in the Alcoholic Beverage Code.

#### *Hearing for Cancellation or Suspension of License*

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services, on the motion of either, to set a date for a hearing to determine if a license should be canceled or suspended. The bill requires DSHS or the commissioner to notify the license holder of the hearing and of its right to appear and show cause why the license should not be canceled or suspended.

### *Appeal From Cancellation or Suspension of License*

C.S.S.B. 3 makes the following statutory provisions relating to an appeal from cancellation, suspension, or denial of license or permit applicable to an appeal from a decision or order of DSHS or the commissioner of state health services canceling or suspending a license:

- an authorization of an appeal from an order of TABC or the administrator of TABC cancelling or suspending a permit or license to be taken to the district court of the county in which the licensee or permittee resides or in which the owner of involved real or personal property resides; and
- a requirement for the appeal to be under the substantial evidence rule and against TABC alone as defendant.

### *May Not Restrain Suspension Order*

C.S.S.B. 3 prohibits a suit of any nature from being maintained in a Texas court to restrain DSHS or the commissioner of state health services or any other officer from enforcing an order of suspension issued by DSHS or the commissioner.

### *Cancellation or Suspension: When Effective*

C.S.S.B. 3 establishes that the manner in which the cancellation or suspension of a license takes effect is governed by Alcoholic Beverage Code provisions relating to notice of cancellation or suspension of an applicable license or permit.

### *Activities Prohibited During Cancellation or Suspension*

C.S.S.B. 3 prohibits a person whose license is canceled from testing, manufacturing, processing, distributing, importing, storing, delivering, selling, or offering for sale consumable hemp products for a period of one year immediately following the cancellation, unless the order of cancellation is superseded pending trial or unless the person prevails in a final judgment rendered on an appeal prosecuted in accordance with the Alcoholic Beverage Code. The bill prohibits a person from testing, manufacturing, processing, distributing, importing, storing, delivering, selling, or offering for sale a consumable hemp product which the person was authorized to sell under a license after the license has been suspended. The bill authorizes DSHS or the commissioner of state health services to cancel the license if it is established to the satisfaction of DSHS or the commissioner at a hearing that a consumable hemp product was tested, manufactured, processed, distributed, imported, stored, delivered, sold, or offered for sale during a period of suspension.

### *Multiple Licenses*

C.S.S.B. 3 authorizes a person to hold more than one license type under the bill's provisions relating to licensing.

### *Subterfuge Ownership*

C.S.S.B. 3 prohibits subterfuge ownership of a license or the licensed premises and authorizes DSHS or the commissioner of state health services to suspend for not more than 60 days or cancel a license issued under the bill's provisions relating to consumable hemp products if it is found, after notice and hearing, that the license holder violated that prohibition.

## Regulation: Manufacturing

### *Hemp Manufacturer's License*

C.S.S.B. 3 authorizes the holder of a hemp manufacturer's license to do the following:

- receive and process at the licensed premises natural hemp flower or hemp biomass from a hemp grower licensed under applicable Agriculture Code provisions or a hemp grower licensed under another state's laws;
- manufacture consumable hemp products in Texas at the licensed premises;
- solicit and take orders from a holder of a hemp manufacturer's license or out-of-state hemp manufacturer's license for the sale of works in progress;
- label and package the license holder's finished consumable hemp products and natural hemp flowers;
- sell the finished consumable hemp products in Texas to holders of hemp distributor's licenses, hemp retailers, and qualified persons outside of Texas;
- sell the finished consumable hemp products to ultimate consumers at the manufacturer's licensed premises for off-premise consumption only and not for the purpose of resale; and
- sell and deliver finished consumable hemp products to ultimate consumers off the licensed premises, but not for resale purposes.

C.S.S.B. 3 authorizes the holder of a hemp manufacturer's license to ship consumable hemp products using a licensed hemp carrier or USPS, or personally transport consumable hemp products, if the shipping or transportation is for a lawful purpose, from the manufacturer's licensed premises or authorized place of storage to the following:

- the licensed premises of a purchaser;
- an ultimate consumer, as provided by these bill provisions; and
- lawful destinations outside of Texas for delivery to qualified purchasers or recipients.

Delivery to an ultimate consumer off the licensed premises may also be by the holder of a hemp consumer delivery license.

C.S.S.B. 3 requires the holder of a hemp manufacturer's license personally transporting consumable hemp products under these provisions to provide to DSHS the following information:

- a full description of each motor vehicle used by the license holder for transporting consumable hemp products; and
- any other information DSHS requires.

C.S.S.B. 3 authorizes the holder of a hemp manufacturer's license to personally transport consumable hemp products only in a vehicle that is, as follows:

- used by the license holder for transporting consumable hemp products;
- owned or leased in good faith by the license holder or by the license holder's agent; and
- printed or painted with the manufacturer's discrete mark or brand and the manufacturer's license number as required for the holder of a hemp distributor's license under the bill's provisions relating to the purchase, sale, and transportation of natural hemp flower.

C.S.S.B. 3 authorizes the holder of a hemp manufacturer's license to store consumable hemp products as follows:

- on the license holder's premises; or
- inside the county in which the license holder's business is located in a:
  - public bonded warehouse registered with DSHS; or
  - private warehouse that is operated and either owned or leased by the license holder and registered with DSHS.

The bill establishes that the privileges granted to a holder of a hemp manufacturer's license are confined strictly to consumable hemp products manufactured under the manufacturer's license

and prohibits a holder of such a license from knowingly using or employing any person under 21 years of age to work on the license holder's premises in any capacity. The bill establishes that the authority of a holder of a hemp manufacturer's license to sell finished consumable hemp products to ultimate consumers at the manufacturer's licensed premises under these provisions is automatically revoked if the property on which the manufacturer's premises is located is in a territory that votes to prohibit the sale of consumable hemp products under the bill's provisions relating to the sale of consumable hemp products.

C.S.S.B. 3 requires the transportation or shipment of consumable hemp products across state lines into foreign jurisdictions to be done in a manner that is consistent with federal law and the laws of those foreign jurisdictions. The bill requires the transportation of natural hemp flower or hemp biomass from a licensed hemp grower to a licensed hemp manufacturer under these provisions to comply with Agriculture Code provisions relating to cultivation of hemp and any applicable rules adopted by the Department of Agriculture. The bill requires a holder of a hemp manufacturer's license to label each batch to include the manufacturer's license number and a sequence to allow for inventory, traceability, and identification of the plant or extract batches used in the production of products.

#### *Out-of-State Hemp Manufacturer's License*

C.S.S.B. 3 authorizes the holder of an out-of-state hemp manufacturer's license to do the following:

- solicit and take orders for finished consumable hemp products from holders of a hemp distributor's license, hemp retailers, and ultimate consumers;
- solicit and take orders for works in progress from a holder of a hemp manufacturer's license or another out-of-state hemp manufacturer;
- sell and ship consumable hemp products into Texas, or cause them to be shipped into Texas, in consummation of sales made to a holder of a hemp manufacturer's license, the holder of a hemp distributor's license, and a hemp retailer;
- sell and ship finished consumable hemp products to ultimate consumers in Texas, but not for resale purposes; and
- ship consumable hemp products using a licensed hemp carrier or USPS, if the shipping is for a lawful purpose, from the out-of-state manufacturer's licensed premises to the licensed premises of a purchaser and to ultimate consumers, as provided by these provisions.

The bill establishes that the privileges granted to a holder of an out-of-state hemp manufacturer's license are confined strictly to consumable hemp products actually manufactured by the license holder. The bill requires the holder of such a license to label each batch to include the manufacturer's license number and a sequence to allow for inventory, traceability, and identification of the plant or extract batches used in the production of products.

#### *Work in Progress*

C.S.S.B. 3 authorizes a manufacturer licensed under the bill's provisions relating to manufacturing to only derive a work in progress from natural hemp flower or hemp biomass based on sampling that was collected not more than 30 days before the day on which the cannabis plant was harvested. A work in progress must be securely kept on the premises of a licensed manufacturer and may only be transferred to another licensed manufacturer for use as an ingredient for the processing of a consumable hemp product. The bill requires a licensed manufacturer transporting a work in progress to provide with the work in progress the sending manufacturer's license number and the license number of the receiving manufacturer. The bill requires manufacturers to keep a log of any such shipments with the date, time, volume, and batch of the work in progress and requires the log entry to be signed by the individuals who authorized the shipment and accompanied the shipment.

### *Self-Audits*

C.S.S.B. 3 requires a person licensed under the bill's provisions relating to manufacturing, at least once every calendar quarter, to conduct a self-audit of inventory creation, tracking, and sales and maintain the resulting data in the form and for the duration required by DSHS. The bill requires the license holder to provide the data to DSHS on request and establishes that the data qualifies as a private record under applicable state law.

### *Good Manufacturing Practices*

C.S.S.B. 3 requires a holder of a license issued under the bill's provision's relating to manufacturing to follow current good manufacturing practices, as defined by DSHS rule.

### *Purchase, Sale, and Transportation of Natural Hemp Flower*

C.S.S.B. 3 authorizes a holder of a hemp manufacturer's license or an out-of-state hemp manufacturer's license, for purposes of the bill's provision's relating to manufacturing, to purchase, sell, and transport natural hemp flower between the manufacturer and the holder of a hemp distributor's license, a hemp retailer, and another hemp manufacturer in the same manner in which the manufacturer may purchase, sell, and transport consumable hemp products to those license holders under those provisions.

### Regulation: Distribution

#### *Hemp Distributor's License*

C.S.S.B. 3 authorizes the holder of a hemp distributor's license to do the following:

- purchase and import consumable hemp products from holders of out-of-state hemp manufacturer's licenses;
- purchase consumable hemp products from holders of hemp manufacturer's licenses;
- purchase consumable hemp products from other licensed hemp distributors in Texas;
- sell consumable hemp products in the original containers and packages in which the products are received to licensed hemp distributors and hemp retailers in Texas;
- sell consumable hemp products to qualified persons outside of Texas; and
- ship consumable hemp products using a licensed hemp carrier or USPS, or personally transport consumable hemp products, for a lawful purpose:
  - from the seller's licensed premises to the distributor's licensed premises or authorized place of storage;
  - from the distributor's licensed premises or authorized place of storage to a purchaser's licensed premises or authorized place of storage;
  - from the distributor's licensed premises or authorized place of storage to ultimate consumers; and
  - from the distributor's licensed premises or authorized place of storage to lawful destinations outside of Texas for delivery to qualified purchasers or recipients.

The bill requires the holder of a hemp distributor's license personally transporting consumable hemp products under these provisions to provide to DSHS a full description of each motor vehicle used by the license holder for transporting those products and any other information DSHS requires.

C.S.S.B. 3 authorizes the holder of a hemp distributor's license to personally transport consumable hemp products only in a vehicle that is described by these provisions, owned or leased in good faith by the license holder or by the license holder's agent, and printed or painted in accordance with the bill's provisions relating to vehicle markings. The bill authorizes the holder of such a license to store consumable hemp products as follows:

- on the license holder's premises; or
- inside the county in which the license holder's business is located in a:

- public bonded warehouse registered with DSHS; or
- private warehouse that is operated and either owned or leased by the license holder and registered with DSHS.

The bill prohibits a hemp distributor's license holder from knowingly using or employing any person under 21 years of age to work on the license holder's premises in any capacity and requires the transportation or shipment of consumable hemp products across state lines into foreign jurisdictions to be done in a manner that is consistent with federal law and the laws of those foreign jurisdictions.

### *Tracking*

C.S.S.B. 3 requires each vehicle used by a holder of a hemp distributor's license to be equipped with a global positioning system tracking device and requires DSHS by rule to determine the length of time tracking data must be recorded and stored.

### *Vehicle Markings*

C.S.S.B. 3 requires all vehicles used by a holder of a hemp distributor's license to transport consumable hemp products to display the distributor's discrete mark or brand and to have the holder's license number visible on the exterior.

### *Purchase, Sale, and Transportation of Natural Hemp Flower*

C.S.S.B. 3 authorizes a holder of a hemp distributor's license, for purposes of the bill's provisions relating to distribution, to purchase, sell, and transport natural hemp flower between the distributor and the holder of a hemp manufacturer's license, the holder of an out-of-state hemp manufacturer's license, a hemp retailer, and another hemp distributor in the same manner in which the distributor may purchase, sell, and transport consumable hemp products to those license holders under those provisions.

### Regulation: Retail Sale of Hemp

#### *General Hemp Retailer Provisions*

C.S.S.B. 3 limits the sale of natural hemp flower or consumable hemp products at retail to a licensed hemp retailer. The bill requires that retailer's location to be at a fixed location and prohibits the retailer's location from being in a vehicle or otherwise mobile.

C.S.S.B. 3 authorizes a hemp retailer to sell the following:

- natural hemp flower and consumable hemp products;
- if the retailer holds a hemp beverage permit, hemp beverages; and
- other products that do not contain cannabinoids.

The bill prohibits a hemp retailer from selling tobacco and nicotine products or alcoholic beverages. The bill establishes that the term "alcoholic beverages" does not include hemp beverages for purposes of this provision.

C.S.S.B. 3 authorizes a hemp retailer to deliver to ultimate consumers consumable hemp products as follows:

- only in response to bona fide orders placed by the consumer with the retailer; and
- only in areas where the sale of the product is legal in:
  - the county in which the premises of the retailer making the sale is located;
  - the city or town in which the premises of the retailer making the sale is located, if the license holder is located in a city or town; or
  - an area not farther than two miles beyond the municipal boundary of the city or town in which the premises of the retailer is located, if applicable.

### *Off-Premise Hemp Retailer's License*

C.S.S.B. 3 authorizes the holder of an off-premise hemp retailer's license to do the following:

- purchase finished consumable hemp products and natural hemp flower in Texas from the holder of a hemp manufacturer's, out-of-state hemp manufacturer's, or hemp distributor's license;
- purchase hemp beverages from persons authorized to manufacture and distribute hemp beverages under the Alcoholic Beverage Code;
- sell finished consumable hemp products, hemp beverages, and natural hemp flower in unbroken original containers and packages on or from the holder's licensed premises at retail to ultimate consumers for off-premise consumption only and not for the purpose of resale;
- sell and deliver finished consumable hemp products, hemp beverages, and natural hemp flower to ultimate consumers off the licensed premises, but not for resale purposes; and
- ship consumable hemp products, hemp beverages, and natural hemp flower using a licensed hemp carrier, USPS, or a hemp consumer delivery license holder or personally transport those items, if the shipping or transportation is for a lawful purpose, from the retailer's licensed premises to ultimate consumers, as provided by these provisions.

C.S.S.B. 3 requires the holder of an off-premise hemp retailer's license personally transporting consumable hemp products, hemp beverages, or natural hemp flower under these provisions to provide to DSHS a full description of each motor vehicle used by the license holder for transporting those items and any other information DSHS requires. The bill authorizes the holder of an off-premise hemp retailer's license to transport consumable hemp products, hemp beverages, and natural hemp flower only in a vehicle that is, as follows:

- used by the license holder for transporting those items;
- owned or leased in good faith by the license holder or by the license holder's agent; and
- printed or painted with the retailer's discrete mark or brand and the retailer's license number as required for the holder of a hemp distributor's license under the bill's provisions relating to vehicle markings.

C.S.S.B. 3 prohibits a person from holding or having an interest, directly or indirectly, in more than 25 hemp retailer stores or in their business or license. The bill establishes the following:

- a person has an interest in any license in which the person's spouse has an interest; and
- as to a corporate license holder, the stockholders, managers, officers, agents, servants, and employees of the corporation have an interest in the license, business, and hemp retailer stores of the corporation.

C.S.S.B. 3 prohibits an off-premise hemp retailer's license from being owned or held by any of the following entities:

- a public corporation;
- any entity that is directly or indirectly owned or controlled, wholly or partly, by a public corporation; or
- any entity that would hold the license for the benefit of a public corporation.

The bill defines "public corporation" for these purposes as one of the following:

- any corporation or other legal entity whose shares or other evidence of ownership are listed on a public stock exchange; or
- any corporation or other legal entity in which more than 35 persons hold an ownership interest in the entity.

C.S.S.B. 3 requires an individual who is an owner or officer of the license holder, before DSHS may renew an off-premise hemp retailer's license, to file with DSHS a sworn affidavit stating that the license holder fully complies with the prohibition against that license being owned or held as specified under these provisions. The bill authorizes any off-premise hemp retailer's license holder who is injured in its business or property by another hemp retailer or by any other

person by reason of anything prohibited in these provisions to institute suit in any district court in the county where the violation is alleged to have occurred to require enforcement by injunctive procedures and to recover triple damages plus costs of suit, including reasonable attorney's fees.

C.S.S.B. 3 prohibits an off-premise hemp retailer's license holder from knowingly using or employing any person under 21 years of age to work on the premises of the retailer in any capacity. The bill exempts a person who is at least 18 years of age and who is employed by the person's parent or legal guardian to work in the retailer that is owned by the parent or legal guardian from applicability of that prohibition. The bill authorizes an off-premise hemp retailer business to operate only during the hours in which a person may sell malt beverages under applicable state law.

#### *On-Premise Hemp Retailer's License*

C.S.S.B. 3 authorizes the holder of an on-premise hemp retailer's license to do the following:

- engage in the same activities as the holder of an off-premise hemp retailer's license;
- sell consumable hemp products and natural hemp flower in unbroken original containers and packages on or from the holder's licensed premises at retail to ultimate consumers for on- or off-premise consumption and not for the purpose of resale; and
- if an on-premise hemp retailer's license holder also obtains a hemp beverage permit, serve, mix, and pour hemp beverages for on-premises consumption provided that the beverage provided to the consumer does not contain more than 10 milligrams of delta-9 tetrahydrocannabinol.

#### *Retail Sale of Consumable Hemp Products Training Program*

C.S.S.B. 3 requires DSHS by rule to develop a training program on the following:

- the requirements and responsibilities provided by law for persons authorized to sell consumable hemp products at retail; and
- the nature and risks associated with the consumption of consumable hemp products.

The bill authorizes DSHS to develop the training program in conjunction with the training program required under the bill's provisions relating to retail sale of hemp beverage training program, as later described. The bill requires a license holder authorized to sell consumable hemp products at retail under the bill's provisions relating to the retail sale of hemp, and the holder's agents, servants, and employees that engage in such sales, to annually complete the training program developed by DSHS under these provisions. If a license holder authorized to sell consumable hemp products at retail is not an individual, an officer, director, or other individual with senior management responsibilities must annually complete the training program developed under these provisions on behalf of the license holder. The bill establishes that the training program developed under these provisions is not a seller training program for purposes of Alcoholic Beverage Code provisions relating to actions of an employee with respect to certain prohibited sales, service, dispensing, or delivery of alcoholic beverages for which such actions are not attributable to the employer.

#### *Sales Near Certain Locations*

C.S.S.B. 3 prohibits the retail sale of consumable hemp products within 300 feet of a school, church, public playground, day-care center, child-care center, homeless shelter, or substance abuse treatment center. The bill requires the measurement of the distance between the place of business where consumable hemp products are sold and the school, church, playground, center, or shelter to be in a direct line from the property line of the school, church, playground, center, or shelter to the property line of the place of business, and in a direct line across intersections.



### *Video Surveillance*

C.S.S.B. 3 requires a license holder authorized to sell consumable hemp products at retail under the bill's provisions relating to retail sale of hemp to install a fully operational video surveillance and camera recording system on the licensed premises and requires that system to capture video of the portion of the premises accessible to the public, including the checkout area but excluding any restroom. The bill requires a license holder to make available on request any video recordings captured by the system to DSHS or a law enforcement agency with jurisdiction over the license holder or premises. The bill establishes that such video recordings are private records under Alcoholic Beverage Code provisions regarding the private records of a permittee, licensee, or other applicable person. The bill requires DSHS to adopt rules establishing standards and requirements for the video surveillance and camera recording system and retention requirements for video footage captured on the system.

### *Electronic Verification of Consumer's Identification*

C.S.S.B. 3 requires a holder of a hemp retailer's license authorized to sell, serve, or deliver consumable hemp products, hemp beverages, or natural hemp flower to an ultimate consumer, or the license holder's agent, servant, or employee, before initiating the sale or delivery, to verify that the purchaser or recipient of the delivery is 21 years of age or older. The bill requires a person to verify a purchaser's or recipient's age by taking the following actions:

- personally inspecting the provided proof of identification;
- scanning the provided proof of identification with a device capable of deciphering electronically readable information on a driver's license, commercial driver's license, or identification certificate;
- using identification authentication software approved by the Department of Public Safety (DPS); and
- using any other identification security features DSHS determines appropriate.

The bill requires a proof of identification provided by a purchaser or recipient under these provisions to contain a physical description and photograph consistent with the person's appearance, purport to establish that the person is 21 years of age or older, and have been issued by a governmental agency. The bill authorizes that proof of identification to include a driver's license or identification certificate issued by DPS, a passport, or a military identification card. The bill prohibits a holder of a hemp retailer's license, or the license holder's agent, servant, or employee, from selling, serving, or delivering a consumable hemp product or natural hemp flower to a purchaser or recipient unless the person presents an apparently valid, unexpired proof of identification.

### *Self-Audits*

C.S.S.B. 3 requires a hemp retailer, at least once every calendar quarter, to conduct a self-audit of inventory tracking and sales data and maintain the resulting data in the form required and for the duration required by DSHS. The bill requires the license holder to provide the data to DSHS on request and establishes that the data qualifies as a private record under Alcoholic Beverage Code provisions regarding the private records of a permittee, licensee, or other applicable person.

### *Age Requirements*

C.S.S.B. 3 prohibits a person under 21 years of age, except as provided by the bill's provisions relating to an off-premise hemp retailer's license, from being permitted to enter a hemp retailer premises.

### Regulation: Hemp Carrier License

C.S.S.B. 3 authorizes the holder of a hemp carrier license to do the following:

- transport consumable hemp products into and out of Texas and between points within Texas; and
- transport consumable hemp products from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

C.S.S.B. 3 requires the holder of a hemp carrier license who transports consumable hemp products to the premises of a holder of a hemp manufacturer's license or hemp distributor's license, or the license holder's authorized place of storage, to provide to the consignee a shipping invoice that clearly states the following information:

- the name and address of the consignor and consignee;
- the origin and destination of the shipment; and
- any other information required by the Alcoholic Beverage Code or DSHS rule, including the brands of consumable hemp products, sizes of containers, types of consumable hemp products, and quantities of consumable hemp products contained in the shipment.

The bill authorizes the issuance of a hemp carrier license to a water carrier, an airline, a railway, a motor carrier registered under applicable Transportation Code provisions, or a common carrier operating under a certificate issued by the Interstate Commerce Commission. The bill requires the holder of a hemp carrier license to furnish information required by DSHS concerning the transportation of consumable hemp products.

#### Regulation: Hemp Consumer Delivery License

C.S.S.B. 3 authorizes the holder of a hemp consumer delivery license to contract with or employ a driver for the delivery of a consumable hemp product from the premises of the holder of a hemp manufacturer's license or hemp retailer to an ultimate consumer located in an area where the sale of the product is legal. The bill authorizes a person who sells or delivers a consumable hemp product under these provisions, in determining whether the sale of consumable hemp products is legal in an area, to consult a map or other publicly available information produced by DSHS for the purpose of establishing where the sale of consumable hemp products is legal. The bill authorizes the holder of a hemp consumer delivery license to make deliveries of consumable hemp products as follows:

- only in response to bona fide orders placed by the consumer under these provisions; and
- only in areas where the sale of the product is legal in:
  - the county in which the premises of the license holder making the sale is located;
  - the city or town in which the premises of the license holder making the sale is located, if the license holder is located in a city or town; or
  - an area not farther than two miles beyond the municipal boundary of the city or town in which the premises of the license holder is located, if applicable.

C.S.S.B. 3 establishes as a defense to a prosecution alleging that an individual delivered a consumable hemp product under the bill's general provisions with respect to consumable hemp products to an address located in an area that is dry for delivered consumable hemp products that:

- the individual or the holder of a hemp consumer delivery license relied on publicly available information produced by DSHS relating to the wet or dry classification of the address; and
- the information indicated that the address to which the product was delivered was classified as wet for delivered consumable hemp products on the date of the delivery.

The bill authorizes a hemp consumer delivery license to be issued to a person who contracts with or employs individuals for the delivery of retail goods to consumers and prohibits a hemp consumer delivery license holder from contracting with or employing a person to make a delivery unless the person is 21 years of age or older and holds a valid driver's license. The bill, as follows:

- authorizes a consumable hemp product to be delivered under these provisions only to a person who is 21 years of age or older and requires the person making the delivery to verify that the purchaser or recipient is 21 years of age or older in the manner provided

under the bill's provisions relating to electronic verification of a consumer's identification;

- prohibits a consumable hemp product from being delivered under the bill's general provisions with respect to consumable hemp products to any person other than the person who purchased the product or a recipient designated in advance by the purchaser; and
- authorizes a consumable hemp product to be delivered under those provisions outside the hours of operation of the license holder from which the delivery is being made, contingent on the delivery driver receiving the product from the license holder during the license holder's hours of legal sale and completing the delivery to the consumer in a reasonable amount of time after leaving the license holder's premises.

C.S.S.B. 3 establishes the following:

- a holder of a hemp manufacturer's license's or hemp retailer's responsibilities under the Alcoholic Beverage Code regarding delivery of a consumable hemp product to an ultimate consumer are considered satisfied at the time the manufacturer or retailer transfers possession of the product to the hemp consumer delivery license holder or a delivery driver employed by, contracted with, or acting on behalf of the holder of a hemp consumer delivery license;
- an action by a hemp consumer delivery license holder or by a delivery driver is not attributable to the holder of a hemp manufacturer's license or hemp retailer with regard to the following:
  - providing, selling, or serving consumable hemp products to a minor or to an intoxicated individual;
  - the delivery of consumable hemp products in a dry or otherwise illegal area, unless the manufacturer or retailer has contractually agreed to retain responsibility for ensuring that deliveries are not directed to a dry or otherwise illegal area; or
  - any other provision of the Alcoholic Beverage Code;

The bill establishes that a hemp manufacturer or retailer is not required to verify that the hemp consumer delivery license holder or the delivery driver has received delivery driver training under the hemp delivery training program adopted by rule under these provisions by DSHS and later described. The bill prohibits a hemp manufacturer or retailer from being held responsible for any reason under statutory or common law for the actions of a hemp consumer delivery license holder or a delivery driver acting on behalf of a hemp consumer delivery license holder.

C.S.S.B. 3 establishes that the actions of a delivery driver acting on behalf of a holder of a hemp consumer delivery license are not attributable to a holder of a hemp consumer delivery license if the license holder has not directly or indirectly encouraged the delivery driver to violate the law and the delivery driver meets one of the following criteria:

- has a valid certification from the hemp delivery training program adopted by rule under these provisions by DSHS and later described; or
- completed the delivery using a hemp delivery compliance software application that meets the requirements established under those provisions.

C.S.S.B. 3 authorizes DSHS or the commissioner of state health services to do the following if it is found, after notice and hearing, that the holder of a hemp consumer delivery license, an agent or employee of the license holder, or a person acting on behalf of the license holder delivered with criminal negligence a consumable hemp product to a minor or an intoxicated person:

- suspend the license for not more than 90 days for the first violation;
- suspend the license for not more than six months for the second violation; and
- suspend the license for not more than 12 months for a third violation within a period of 36 consecutive months.

The bill establishes for these purposes that it is a rebuttable presumption that a sale or delivery of a consumable hemp product to a minor or an intoxicated person was not made with criminal negligence if the delivery driver meets the following criteria:

- at the time of the delivery held a valid certification from the hemp delivery training program adopted by rule under these provisions by DSHS and later described; and
- completed the delivery as a result of a technical malfunction of a hemp delivery compliance software application that otherwise meets the requirements established under those provisions.

C.S.S.B. 3 requires DSHS by rule to do the following:

- adopt and administer a hemp delivery training program for the purpose of training and certifying delivery drivers contracting with or employed by the holder of a hemp manufacturer's, retailer's, or consumer delivery license; and
- establish minimum requirements for hemp delivery compliance software applications.

The bill requires DSHS to implement a system that allows the holder of a hemp manufacturer's, retailer's, or consumer delivery license to verify in real time whether a delivery driver has a valid certification from the training program adopted under these provisions.

### Consumable Hemp Product Requirements

#### *Domestic Sourcing*

C.S.S.B. 3, effective September 1, 2025, requires all ingredients for a consumable hemp product to originate from within the United States unless DSHS specifically approves an ingredient originating from another location.

#### *Ingredients of Consumable Hemp Product*

C.S.S.B. 3, effective September 1, 2025, requires each ingredient in a consumable hemp product to be organic and prohibits each ingredient from including genetically modified organisms unless DSHS specifically approves the ingredient. The bill prohibits an ingredient in a consumable hemp product from including an artificial dye or other artificial product unless DSHS specifically approves the ingredient.

#### *Converted or Synthetic Cannabinoids Prohibited*

C.S.S.B. 3, effective September 1, 2025, prohibits a consumable hemp product from containing any converted or synthetic cannabinoids.

#### *Prohibited Forms of Consumable Hemp Products*

C.S.S.B. 3, effective September 1, 2025, prohibits a consumable hemp product from doing the following:

- resembling common snacks such as chips, candy, chewing gum, or other products attractive to minors; and
- being in a form intended for inhaling by heating the product, including as a hemp-infused oil.

The bill authorizes a consumable hemp product to be in the form of gummies, pills, or mints, provided that the form of the item and packaging are not attractive to minors and comply with the bill's provisions relating to labeling requirements and relating to packaging prohibitions.

#### *Total Tetrahydrocannabinol Limit for Consumable Hemp Products*

C.S.S.B. 3, effective September 1, 2025, prohibits a consumable hemp product that is an oil-based tincture from containing more than, subject to allowable variance rates and the measure of uncertainty, the following amounts:

- 2.5 milligrams of tetrahydrocannabinol in each one-milliliter serving; or
- 75 milligrams of tetrahydrocannabinol in each container.

C.S.S.B. 3 prohibits a consumable hemp product other than an oil-based tincture from containing more than, subject to allowable variance rates and the measure of uncertainty, the following amounts:

- 10 milligrams of tetrahydrocannabinol in each serving; or
- one gram of tetrahydrocannabinol in each container.

#### *Consumable Hemp Product Registration*

C.S.S.B. 3 prohibits a consumable hemp product from being offered for sale in Texas unless the manufacturer of the product, before selling the product, does the following:

- submits an application for the consumable hemp product to be registered with TABC that includes front and back pictures of the product; and
- receives approval from TABC that the product is compliant with the bill's provisions relating to consumable hemp product requirements, registered, and approved for sale in Texas.

The bill requires TABC to issue a unique product registration number to each consumable hemp product approved by and registered with TABC and requires a manufacturer applying to register a consumable hemp product under these provisions to pay an application fee to DSHS in the amount of \$100 for each product the manufacturer seeks to register. The bill prohibits DSHS from approving for sale or registering a consumable hemp product that contains any converted or synthetic cannabinoids or that contains or is mixed with alcohol, tobacco, nicotine, kratom, kava, psychoactive mushrooms, or a derivative of any of those items. The bill authorizes TABC to adopt rules for the submission of and requirements for an application for registration under these provisions.

#### *Registered Product Website*

C.S.S.B. 3 requires TABC to maintain an updated product registration list on its public website, which must include front and back identifying pictures of each registered consumable hemp product for the purpose of confirming registration of the product and allowing verification of the product by law enforcement.

#### Natural Hemp Flower Requirements

##### *Effective Date*

The following bill provisions relating to natural hemp flower requirements take effect September 1, 2025.

##### *Texas Origin*

C.S.S.B. 3 requires natural hemp flower distributed and sold in Texas to be grown in Texas.

##### *Additives Prohibited*

C.S.S.B. 3 prohibits a grower, manufacturer, distributor, or retailer of hemp from adding any ingredient to natural hemp flower.

##### *Packaging*

C.S.S.B. 3 requires a natural hemp flower to be sealed in a child resistant container that is labeled with the following:

- the retail license number and hemp testing laboratory number; and
- a QR code that links to the certificate of analysis showing that the total tetrahydrocannabinol concentration is less than 0.3 percent by dry weight.

## Packaging, Labeling, and Advertising of Consumable Hemp Products

### *Labeling Requirements*

C.S.S.B. 3 requires a consumable hemp product that contains or is marketed as containing more than trace amounts of cannabinoids, before that product may be distributed or sold, to be labeled in the manner provided by these provisions with the following information:

- the common name of the product, stated clearly, prominently, and truthfully;
- the product ingredients;
- any relevant major food allergens identified in the federal Food and Drug Act;
- the batch identification number;
- the batch date;
- the product name;
- a uniform resource locator that provides or links to a certificate of analysis for the product;
- the name and DSHS license number of the product's manufacturer;
- a certification that the tetrahydrocannabinol content of the product complies with state law;
- the identity and concentration of each hemp-derived cannabinoid in the product; and
- if the product contains tetrahydrocannabinols, a tetrahydrocannabinol warning icon adopted by DSHS.

C.S.S.B. 3 requires each consumable hemp product, including the container and package, if applicable, to be labeled with the following:

- a QR code that links to DSHS's product registration list under the bill's provisions relating to registered product website, including the identifying pictures of the back and front of the product; and
- the following message placed adjacent to the required QR code on the label: "SCAN QR CODE BEFORE PURCHASE".

The bill requires the labeling to appear on each unit of the product intended for individual retail sale. The bill authorizes the labeling, if that unit includes inner and outer packaging, to appear on any of that packaging and requires packaging for a consumable hemp product that contains tetrahydrocannabinols to be tamper evident and child resistant.

### *Packaging Prohibitions*

C.S.S.B. 3 prohibits a person from marketing, advertising, selling, or causing to be sold a consumable hemp product that does the following:

- is in the shape of a human, animal, fruit, or cartoon or in another shape that is attractive to minors; or
- is in packaging or a container that:
  - is in the shape of a human, animal, fruit, or cartoon or in another shape that is attractive to minors;
  - depicts an image of a human, animal, fruit, or cartoon or another image that is attractive to minors;
  - imitates or mimics trademarks or trade dress of products that are or have been primarily marketed to minors;
  - includes a symbol that is primarily used to market products to minors;
  - includes an unauthorized image of a celebrity; or
  - includes an image that resembles a food product, including candy or juice.

The bill establishes for these purposes that a cartoon includes a depiction of an object, person, animal, creature, or any similar caricature that does one of the following:

- uses comically exaggerated features and attributes;
- assigns human characteristics to animals, plants, or other objects; or

- has unnatural or extra-human abilities, including imperviousness to pain or injury, x-ray vision, tunneling at very high speeds, and transformation.

#### *Advertising Restrictions*

C.S.S.B. 3 prohibits a person from doing the following:

- advertising or promoting a consumable hemp product in a manner that is targeted or attractive to minors or that could cause a reasonable person or minor to confuse the product for medicine, candy, snacks, or other food products that are widely distributed and familiar to the public;
- advertising or using signage that asserts consumable hemp products are safe because the products are:
  - regulated by the state or DSHS; or
  - tested by the state, DSHS, another governmental entity, or a testing facility; and
- advertising a consumable hemp product using amplified sound from, or signs, pictures, or video on, a vehicle on a public street or highway.

#### *License Holder Advertising Restrictions*

C.S.S.B. 3 prohibits a license holder from doing the following:

- engaging in advertising that is deceptive, false, or misleading;
- making any deceptive, false, or misleading assertions or statements on a product, sign, or document provided to a consumer;
- engaging in marketing directed toward location-based devices, including cellular phones; or
- using unsolicited pop-up advertisements on a website.

#### *Prohibited Sponsorship or Advertisement at Certain Events*

C.S.S.B. 3 prohibits a license holder from sponsoring, and prohibits a person from advertising, a consumable hemp product at a charitable, sports, or similar event.

#### *Location of Advertisements*

C.S.S.B. 3 prohibits a person from advertising a consumable hemp product or a consumable hemp product business on an outdoor sign that is within 300 feet of a school, church, playground, day-care center, child-care center, homeless shelter, or substance abuse treatment center. The bill establishes that this prohibition does not apply to a license holder engaged in business unrelated to consumable hemp products if the advertisement does not promote a consumable hemp product or the license holder's involvement with a consumable hemp product. The bill defines "homeless shelter" by reference to Alcoholic Beverage Code provisions relating to the prohibited possession or consumption of alcoholic beverages near a homeless shelter or substance abuse treatment center and defines "playground" and "school" by reference to the Texas Controlled Substances Act provisions enhancing certain offenses and penalties if they occur in drug-free zones.

#### *Advertising; Rules*

C.S.S.B. 3 requires DSHS to adopt rules regarding the advertisement and promotion of consumable hemp products by license holders, including rules that restrict the advertisement or promotion of a consumable hemp product to minors to the full extent permitted by the U.S. Constitution and Texas Constitution.

## Enforcement: General Provisions

### *Effective Date*

The following bill provisions establishing general enforcement provisions and specific criminal offenses take effect September 1, 2025.

### *Prohibitions*

C.S.S.B. 3 prohibits a person from selling, offering for sale, possessing, distributing, or transporting a consumable hemp product or hemp beverage in Texas that meets any of the following conditions:

- contains any material extracted or derived from the plant *cannabis sativa* L., other than from hemp produced in compliance with federal law relating to hemp production;
- is not labeled with the license numbers of the manufacturer and hemp testing laboratory that performed the compliance testing for the product's batch; or
- has not been tested by a hemp testing laboratory in compliance with the bill's provisions relating to testing of consumable hemp products, hemp beverages, hemp biomass, and natural hemp flower.

C.S.S.B. 3 requires DSHS and DPS to establish a process for the random testing of consumable hemp products and hemp beverages at various retail and other establishments that sell, offer for sale, distribute, or use the products or beverages to ensure that the products or beverages:

- do not contain harmful ingredients;
- are produced in compliance with federal law relating to hemp production; and
- have a tetrahydrocannabinol content in compliance with the definition of "hemp beverage" as that term is defined by the bill's provisions relating to general provisions of the Alcoholic Beverage Code, by the bill's provisions relating to multi-serving hemp beverage containers, or by the bill's provisions relating to the total tetrahydrocannabinol limit for consumable hemp products.

### *Deceptive Trade Practice*

C.S.S.B. 3 establishes that a person who sells, offers for sale, or distributes a consumable hemp product or hemp beverage commits a false, misleading, or deceptive act or practice actionable under the Deceptive Trade Practices-Consumer Protection Act if one of the following conditions applies:

- the person falsely claims the product or beverage has been processed or manufactured in compliance with the bill's provisions relating to consumable hemp products; or
- the product or beverage:
  - contains harmful ingredients;
  - is not produced in compliance with federal law relating to hemp production; or
  - has a tetrahydrocannabinol content that exceeds the applicable limit established by the definition of "hemp beverage" as that term is defined by the bill's provisions relating to general provisions of the Alcoholic Beverage Code, by the bill's provisions relating to multi-serving hemp beverage containers, or by the bill's provisions relating to the total tetrahydrocannabinol limit for consumable hemp products.

## Enforcement: Criminal Offenses

### *Offense: Manufacture, Delivery, or Possession With Intent to Deliver Certain Consumable Hemp Products or Hemp Beverages*

C.S.S.B. 3 creates the state jail felony offense of manufacture, delivery, or possession with intent to deliver certain consumable hemp products or hemp beverages for a person who knowingly



manufactures, delivers, or possesses with intent to deliver a consumable hemp product or hemp beverage that contains:

- synthetic or converted cannabinoids; or
- an amount of tetrahydrocannabinol that exceeds the applicable limit established by the definition of "hemp beverage" as that term is defined by the bill's provisions relating to general provisions of the Alcoholic Beverage Code, by the bill's provisions relating to multi-serving hemp beverage containers, or by the bill's provisions relating to the total tetrahydrocannabinol limit for consumable hemp products.

If conduct constituting the offense also constitutes an offense under another law, the actor may be prosecuted for either offense or both offenses.

*Offense: Possession of Certain Consumable Hemp Products or Hemp Beverages*

C.S.S.B. 3 creates the Class A misdemeanor offense of possession of certain consumable hemp products or hemp beverages for a person who intentionally or knowingly possesses a consumable hemp product or hemp beverage that contains:

- synthetic or converted cannabinoids; or
- an amount of tetrahydrocannabinol that exceeds the applicable limit established by the definition of "hemp beverage" as that term is defined by the bill's provisions relating to general provisions of the Alcoholic Beverage Code, relating to multi-serving hemp beverage containers, or relating to the total tetrahydrocannabinol limit for consumable hemp products.

If conduct constituting the offense also constitutes an offense under another law, the actor may be prosecuted for either offense or both offenses.

*Offense: Sale or Delivery of Consumable Hemp Products or Hemp Beverages Near School*

C.S.S.B. 3 creates the Class B misdemeanor offense of sale or delivery of consumable hemp products or hemp beverage near school for a person who sells, offers for sale, or delivers a consumable hemp product or hemp beverage in, on, or within 300 feet of the premises of a school. The bill defines "premises" and "school" by reference to the Texas Controlled Substances Act provisions enhancing certain offenses and penalties if they occur in drug-free zones.

*Offense: False Laboratory Report*

C.S.S.B. 3 creates the third degree felony offense of false laboratory report for a person who, with the intent to deceive, forges, falsifies, or alters the results of a laboratory test authorized or required by the bill's provisions relating to consumable hemp products.

*Offense: Purchase and Possession Limits of Natural Hemp Flower*

C.S.S.B. 3 creates the Class B misdemeanor offense of purchase and possession limits of natural hemp flower for a person who does not hold a license under the bill's provisions relating to consumable hemp products and purchases more than one ounce of natural hemp flower in one day or knowingly possesses more than one ounce of natural hemp flower.

*Offense: Possession of Natural Hemp Flower in Open Container in Motor Vehicle*

C.S.S.B. 3 creates the Class C misdemeanor offense of possession of natural hemp flower in open container in motor vehicle for a person who knowingly possesses an open container in a passenger area of a motor vehicle that is located on a public highway, regardless of whether the vehicle is being operated or is stopped or parked. The bill establishes that possession by a person of one or more open containers in a single criminal episode is a single offense. The bill creates an exception to the application of the offense that the defendant, at the time of the offense, was a passenger in one of the following:

- the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxicab, or limousine; or
- the living quarters of a motorized house coach or motorized house trailer, including a self-contained camper, a motor home, or a recreational vehicle.

The bill requires a peace officer charging a person with the offense, instead of taking the person before a magistrate, to issue to the person a written citation and notice to appear that contains the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged. The bill requires the officer to release the person if the person makes a written promise to appear before the magistrate by signing in duplicate the citation and notice to appear issued by the officer.

C.S.S.B. 3 defines the following terms:

- "open container" as a package, container, or other receptacle that contains any amount of natural hemp flower and that is open, that has been opened, that has a broken seal, or the contents of which are partially removed;
- "passenger area of a motor vehicle" as the area of a motor vehicle designed for the seating of the operator and passengers of the vehicle, not including the following:
  - a glove compartment or similar storage container that is locked;
  - the trunk of a vehicle; or
  - the area behind the last upright seat of the vehicle, if the vehicle does not have a trunk; and
- "public highway" as the entire width between and immediately adjacent to the boundary lines of any public road, street, highway, interstate, or other publicly maintained way if any part is open for public use for the purpose of motor vehicle travel, including the right-of-way of a public highway.

### **Agriculture Code Provisions**

C.S.S.B. 3 amends the Agriculture Code to revise and update certain Agriculture Code provisions regarding the cultivation of hemp to, as appropriate, reflect the repeal of the existing statutory framework by which DSHS regulates the manufacture, distribution, and sale of consumable hemp products, the initial grant of regulatory authority over consumable hemp products under a new statutory framework to DSHS, and the subsequent transfer of the latter grant of regulatory authority to TABC by doing the following:

- requiring the state hemp production plan to comply with the bill's provisions granting authority over consumable hemp products as effective January 1, 2027, and accordingly removing, effective January 1, 2027, a reference to the repealed provisions; and
- regarding Agriculture Code provisions regulating the cultivation of hemp:
  - updating the definition of "handle," effective January 1, 2027, with respect to possessing or storing a hemp plant in a vehicle for any period of time other than during the actual transport of the plant from a premises owned, operated or controlled by a license holder to a certain licensed person, to specify that such a person is a person licensed under the bill's provisions granting authority over consumable hemp products and to accordingly remove the reference to the repealed provisions; and
  - updating the definition of "nonconsumable hemp product," effective September 1, 2025, to exclude from the definition a consumable hemp product as defined by reference to the bill's Alcoholic Beverage Code definition of a "consumable hemp product" and to accordingly remove the reference to the repealed provision.

With respect to the Agriculture Code provision establishing that a person is not required to hold a hemp grower's license under applicable state law to manufacture a consumable hemp product in accordance with Health and Safety Code provisions relating to food and drug health regulations, the bill specifies that a person is not required to hold such a license to manufacture such a product in accordance with the bill's provisions relating to consumable hemp products.

C.S.S.B. 3, with respect to the requirement in the Alcoholic Beverage Code that either the Texas Department of Agriculture (TDA), an institution of higher education, or an independent testing laboratory registered with TDA perform testing of hemp or inspect land where hemp is grown, specifies that, in addition to being registered with TDA, the independent testing laboratory must also be licensed under a certain chapter of the Alcoholic Beverage Code.

C.S.S.B. 3 updates the prohibition against a state agency authorizing a person to manufacture a product containing hemp for smoking to remove the reference to the repealed Health and Safety Code provisions relating to the manufacture, distribution, and sale of consumable hemp products and instead prohibits a state agency from authorizing a person to manufacture a product containing hemp for the burning or igniting of the hemp and inhaling the smoke or heating the hemp and inhaling the resulting vapor or aerosol.

## **Alcoholic Beverage Code Provisions**

### General Provisions; Definitions

C.S.S.B. 3 defines the following terms for purposes of the Alcoholic Beverage Code:

- "illicit consumable hemp product" as a consumable hemp product:
  - manufactured, processed, distributed, bought, sold, stored, possessed, imported, or transported in violation of the Alcoholic Beverage Code;
  - on which a tax imposed by the laws of this state has not been paid; or
  - possessed, kept, stored, owned, or imported with intent to sell, distribute, process, store, or transport in violation of the Alcoholic Beverage Code.
- "certificate of analysis" as an official document issued by a hemp testing laboratory:
  - documenting the testing results of a particular sample that includes the concentration of cannabinoid analytes, data on the level of tetrahydrocannabinols, or other measures as established by TABC rule; and
  - stating whether the sample passed or failed any sample requirements established under the bill's provisions relating to consumable hemp products or a rule adopted under those provisions;
- "consumable hemp product" as a food, drug, device, or cosmetic, as those terms are defined by the Texas Food, Drug, and Cosmetic Act, that contains hemp or one or more cannabinoids, not including a topical product containing hemp, a hemp beverage, or natural hemp flower as that term is defined by the bill's provisions relating to consumable hemp products;
- "hemp" has the meaning assigned by Agriculture Code provisions relating to the state hemp production plan;
- "hemp beverage" as a beverage that:
  - contains hemp or one or more hemp-derived cannabinoids;
  - does not contain any amount of converted cannabinoids or synthetic cannabinoids as those terms are defined by the bill's provisions relating to consumable hemp products;
  - does not contain or is not mixed with alcohol, caffeine, tobacco, nicotine, kratom, kava, psychoactive mushrooms, or a derivative of any of those items; and
  - contains 10 milligrams or less of delta-9 tetrahydrocannabinol, except as provided by the bill's provisions relating to multi-serving hemp beverage container;
- "hemp retailer" as a person licensed under the bill's provisions relating to off-premise hemp retailer's license or relating to on-premise retailer's license; and
- "hemp testing laboratory" as a laboratory, including a laboratory at an institution of higher education, as defined by the Higher Education Coordinating Act of 1965, authorized by and licensed under the bill's provisions relating to licensing of hemp testing laboratories to test hemp, including natural hemp flower and hemp biomass as those terms are defined by the bill's provisions relating to consumable hemp products, hemp beverages, and consumable hemp products.

## Texas Alcoholic Beverage Commission

### *Relationship With Consumable Hemp Product Business Prohibited*

C.S.S.B. 3 expands the prohibition against a person being appointed to or serving on TABC, or holding an office under TABC, or being employed by TABC, if the person is employed by or has a financial interest in an alcoholic beverage business, to include a prohibition, under the same conditions but applicable to consumable hemp products, against a person being so appointed or so serving who is employed by or has a financial interest in a consumable hemp product business.

### *Suits Against TABC: Venue*

C.S.S.B. 3, with respect to the appeals excepted from the requirement that venue for all suits against TABC is in Travis County, excepts from that requirement appeals governed by the bill's provisions relating to an appeal from cancellation or suspension of a license required for the testing, manufacturing, or processing of consumable hemp products.

### *Hemp Advisory Committee*

C.S.S.B. 3 authorizes TABC by rule to establish an advisory committee to assist TABC in rulemaking and the development of a licensing and enforcement system for hemp beverages and consumable hemp products. The bill requires the advisory committee, if established by TABC, to include at least the following members appointed by the administrator of TABC:

- more than one representative of DSHS;
- more than one representative of DPS;
- a peace officer representing a local law enforcement agency;
- a scientist with expertise in the laboratory testing of cannabis;
- an attorney with expertise in cannabis regulation;
- a person licensed under the bill's provisions relating to the regulation of hemp manufacturing;
- a person licensed under the bill's provisions relating to the regulation of the retail sale of hemp;
- a person licensed under statutory provisions relating to brewer's licenses or relating to nonresident brewer's licenses who also holds a permit under the bill's provisions relating to hemp beverage permits; and
- a person licensed under statutory provisions relating to general distributor's licenses or relating to branch distributor's licenses who also holds a permit under the bill's provisions relating to hemp beverage permits.

### *General Powers and Duties*

C.S.S.B. 3 expands TABC's powers and duties to require that TABC do the following:

- inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing consumable hemp products, and the possession of those products for the purpose of sale or otherwise;
- promote legal and responsible consumable hemp consumption; and
- ensure fair competition within the consumable hemp product industry.

### *May Require Reports*

C.S.S.B. 3 authorizes TABC to require persons engaged in the consumable hemp product business to provide information, records, or other documents TABC finds necessary to accomplish the purposes of the Alcoholic Beverage Code.

### *Issuance of Permits and Licenses*

C.S.S.B. 3 authorizes TABC to grant, refuse, suspend, or cancel consumable hemp product licenses as provided in the Alcoholic Beverage Code.

### *Investigation of Violations*

C.S.S.B. 3 requires TABC to investigate violations of the Alcoholic Beverage Code and other laws relating to consumable hemp products and to cooperate in the prosecution of offenders before any court of competent jurisdiction and authorizes TABC to seize consumable hemp products manufactured, sold, kept, imported, or transported in violation of the Alcoholic Beverage Code and to apply for the confiscation of the products if required to do so by the code.

### *Schedule of Sanctions*

C.S.S.B. 3, with respect to the schedule of sanctions currently applicable to an alcoholic beverage license or permit holder for violations of the Alcoholic Beverage Code or rules adopted under the code, does the following:

- expands the requirement for the schedule of sanctions for each violation for which a license or permit may be suspended, to include the number of days a permit or license would be suspended and the corresponding civil penalty under statutory provisions relating to alternatives to suspension to include the corresponding civil penalty under the bill's provisions relating to alternatives to suspension or cancellation of a consumable hemp product license;
- expands the requirement for the schedule to allow deviations from the schedule for clearly established mitigating circumstances, including circumstances listed in statutory provisions relating to alternatives to suspension, to include circumstances listed in the bill's provisions relating to alternatives to suspension or cancellation of a consumable hemp product license; and
- expands the requirement for the schedule to include a list of the most common violations by members of the manufacturing, wholesaling, and retailing tiers of the alcoholic beverage industry to include the most common violations by members of the manufacturing, wholesaling, and retailing tiers of the consumable hemp product industry.

### *Quality and Purity of Hemp Beverages and Consumable Hemp Products*

C.S.S.B. 3 authorizes TABC to do the following:

- require a test of the contents of a hemp beverage or consumable hemp product manufactured or sold in Texas to protect the public health and safety and to ensure that the product is accurately represented to the public and complies with state law and TABC rules; and
- use a hemp testing lab licensed under a specified chapter to conduct testing under this bill provision.

### *Private Records*

C.S.S.B. 3 includes in the definition of "private records" all records in a periodic report relating to the importation, distribution, or sale of consumable hemp products required by TABC to be regularly filed, thereby making those records that are required or obtained by TABC or its

agents, in connection with an investigation or otherwise, privileged unless introduced in evidence in a hearing before TABC or before a court in Texas or the United States.

#### *Establishment of Certain Fees*

C.S.S.B. 3 requires the process TABC develops for setting fees to ensure that TABC does not overly penalize any segment of the consumable hemp product industry.

#### *Marketing Practices Regulatory Decisions*

C.S.S.B. 3 makes applicable to the consumable hemp product industry the following requirements currently applicable to the alcoholic beverage industry:

- the requirement for TABC to develop a formal process for making policy decisions regarding marketing practices regulations and for communicating those decisions to agency staff and the industry; and
- the requirement for TABC to gather input from a diverse group of representatives of the industry regarding regulatory issues and interpretations of the Alcoholic Beverage Code and TABC rules, including industry representatives from the manufacturing, distribution, and retail tiers of the consumable hemp industry.

#### Cancellation and Suspension of Permits

##### *Alternatives to Suspension*

C.S.S.B. 3 includes a violation or offense related to a hemp beverage as one of the circumstances triggering the requirement that TABC or the administrator of TABC determine whether a civil penalty may be paid as an alternative to suspension of a permit or license.

#### Mixed Beverage Permit

##### *Authorized Activities*

C.S.S.B. 3 authorizes a mixed beverage permit holder to do the following:

- sell, offer for sale, and possess hemp beverages for consumption on licensed premises from the following:
  - sealed containers containing not less than one fluid ounce nor more than two fluid ounces or of any legal size; and
  - unsealed containers;
- purchase hemp beverages in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and
- sell the hemp beverages for consumption on the licensed premises.

##### *Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption*

C.S.S.B. 3 requires a hemp beverage delivered to an ultimate consumer located off-premises that is not in an original container sealed by the manufacturer to be in a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's business name and the letters "THC."

#### Private Club Registration Permit

##### *Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption*

C.S.S.B. 3 requires a hemp beverage delivered to an ultimate consumer located off-premises that is not in an original container sealed by the manufacturer to be in a tamper-proof container

that is sealed by the permit holder and clearly labeled with the name of the private club registration permit holder and the letters "THC."

### Carrier Permit

#### *Authorized Activities*

C.S.S.B. 3 authorizes the holder of a carrier permit who holds a hemp beverage permit to do the following:

- transport hemp beverages into and out of Texas and between points within Texas to a person authorized to sell or possess hemp beverages; and
- transport hemp beverages from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

### **Hemp Beverage Permit**

#### Certain Provisions Related to Alcoholic Beverages and Malt Beverages

C.S.S.B. 3 establishes that, unless otherwise provided by the Alcoholic Beverage Code or the context indicates otherwise, for the purposes of the Alcoholic Beverage Code:

- the term "alcoholic beverage" includes a hemp beverage;
- the term "malt beverage" includes a hemp beverage; and
- the terms "brewing" and "brew" when referring to malt beverages include the production of hemp beverages by authorized brewers.

#### Eligibly Permit and License Holders

C.S.S.B. 3 authorizes a hemp beverage permit to be issued to the holder of a package store permit, mixed beverage permit, private club registration permit, carrier's permit, consumer delivery permit, brewer's license, nonresident brewer's license, general distributor's license, branch distributor's license, brewpub license, and hemp retailer license.

#### Authorized Activities

C.S.S.B. 3 requires a person to hold a hemp beverage permit to manufacture, produce, sell, import, export, distribute, or possess for the purpose of selling, transporting, storing, or delivering for commercial purposes hemp beverages. The bill authorizes a hemp beverage permit holder, except as otherwise provided in the Alcoholic Beverage Code, to engage in those activities to the extent authorized by the holder's primary or other secondary permit or license.

#### Fees

C.S.S.B. 3 establishes that the fee for the issuance of an original or renewal hemp beverage permit issued under the bill's provisions is:

- \$1,800 for a package store permit holder;
- \$2,650 for a mixed beverage permit or private club registration permit holder;
- \$1,100 for a carrier's permit holder;
- \$10,000 for a consumer delivery permit holder;
- \$5,000 for a brewer's license or nonresident brewer's license holder;
- \$5,000 for a general distributor's license or branch distributor's license holder;
- \$1,100 for a brewpub license holder; and
- \$500 for a hemp retailer's license holder.

## Packaging and Advertising or Promotion of a Hemp Beverage

C.S.S.B. 3 provides for the following with respect to a hemp beverage package or container:

- the package or container must not:
  - be attractive to children;
  - bear any resemblance to soda, candy, snacks, medicine, or other food products that are widely distributed and familiar to the public; or
  - be stocked near such products; and
- the package or container must be tamper evident and child resistant.

The bill prohibits a hemp beverage from being advertised or promoted in any manner that is attractive to children or that could cause a reasonable individual or child to confuse the hemp beverage for soda, medicine, or other beverage products that are widely distributed and familiar to the public. The bill requires TABC by rule to impose restrictions on the holder of a hemp beverage permit with respect to advertising or otherwise promoting hemp beverages to minors to the full extent permitted by the U.S. Constitution and Texas Constitution.

## Required Posting of Signs by Certain Permit Holders

C.S.S.B. 3 requires a hemp beverage permit holder authorized to sell hemp beverages at retail to prominently display on the permitted or licensed premises, including in any restroom and the check-out or cash register portion of the premises, a sign containing the following information in English and in Spanish:

- consumption of a hemp beverage will result in a positive drug test;
- a person should not drive or operate machinery if under the influence of a hemp beverage;
- consuming alcohol and hemp beverages together may result in unanticipated severe levels of intoxication; and
- consult your physician before consuming hemp beverages during pregnancy as doing so is not recommended for mothers.

The bill requires the sign to be 8-1/2 inches high and 11 inches wide and displayed in a conspicuous manner clearly visible to the public and employees of the permit holder. The bill requires the English notice to cover approximately two-thirds of the sign and the Spanish notice to cover approximately one-third of the sign. TABC must develop the sign described by these provisions and post a copy of the sign on the TABC website.

## Prohibited Mixing of Hemp Beverages

C.S.S.B. 3 prohibits a hemp beverage permit holder authorized to sell hemp beverages at retail from mixing, or recklessly allowing anyone on the permitted or licensed premises to mix, a hemp beverage with any other liquid or substance containing alcohol, caffeine, tobacco, nicotine, kratom, kava, psychoactive mushrooms, or a derivative of any of those items.

## Electronic Verification of Consumer's Identification

C.S.S.B. 3 requires a hemp beverage permit holder authorized to sell, serve, or deliver hemp beverages to an ultimate consumer, including the holder of a consumer delivery permit, or the permit holder's agent, servant, or employee, before initiating the sale or delivery, to verify that the purchaser or recipient of the delivery is 21 years of age or older. A person must verify a purchaser's or recipient's age under these provisions by doing the following:

- personally inspecting the provided proof of identification;
- scanning the provided proof of identification with a device capable of deciphering electronically readable information on a driver's license, commercial driver's license, or identification certificate;
- using identification authentication software approved by DPS; and
- using any other identification security features TABC determines appropriate.



The bill requires a proof of identification provided by a purchaser or recipient under these provisions to contain a physical description and photograph consistent with the person's appearance, purport to establish that the person is 21 years of age or older, and have been issued by a governmental agency. The proof of identification may include a driver's license or identification certificate issued by DPS, a passport, or a military identification card. The bill conditions the authorization for a hemp beverage permit holder, or the permit holder's agent, servant, or employee, to sell or deliver a hemp beverage to a purchaser or recipient on the person presenting an apparently valid, unexpired proof of identification.

#### Retail Sale of Hemp Beverage Training Program

C.S.S.B. 3 requires TABC by rule to develop a training program on the requirements and responsibilities provided by law for persons authorized to sell, serve, or deliver hemp beverages at retail and the risks associated with the consumption of hemp beverages. The bill requires the hemp beverage permit holder authorized to sell hemp beverages at retail, and the holder's agents, servants, and employees, to annually complete the training program developed by TABC under these provisions. The bill requires the training program, if the hemp beverage permit holder authorized to sell hemp beverages at retail is not an individual, to be annually completed by an officer, director, or other individual with senior management responsibilities for the holder. The bill establishes that the training program developed under these provisions is not a seller training program for purposes of Alcoholic Beverage Code provisions relating to actions of an employee with respect to certain prohibited sales, service, dispensing, or delivery of alcoholic beverages for which such actions are not attributable to the employer.

#### Multi-Serving Hemp Beverage Container

C.S.S.B. 3, subject to the restrictions in these provisions, authorizes a hemp beverage permit holder that also holds a brewer's license, nonresident brewer's license, or brewpub license to produce multi-serving hemp beverages. The bill defines "multi-serving hemp beverage" as a beverage that meets all of the requirements of a hemp beverage, except that the beverage is contained in a bottle, keg, or other container that collectively contains more than 10 milligrams of delta-9 tetrahydrocannabinol. The bill also authorizes the applicable hemp beverage permit holder to do the following:

- sell multi-serving hemp beverages to a hemp beverage permit holder that also holds a brewer's license, nonresident brewer's license, general distributor's license, or branch distributor's license, or to qualified persons outside Texas in compliance with that state's law; and
- if the hemp beverage permit holder also has a brewer's self-distribution license, self-distribute multi-serving hemp beverages to licensed hemp retailers.

The bill authorizes a hemp beverage permit holder that also holds a general distributor's license or branch distributor's license to receive multi-serving hemp beverages from authorized brewers as provided in these provisions and general and branch distributors that also hold a hemp beverage permit. The distributor may only sell multi-serving hemp beverages to a hemp beverage permit holder that is also a mixed beverage permit holder, private club registration permit holder, hemp retailer, general distributor's license holder, branch distributor's license holder, local distributor's permit holder, or a package store permit holder.

C.S.S.B. 3 provides for the following with respect to hemp beverage permit holders that also hold other permits:

- an authorization for a hemp beverage permit holder that also holds a package store permit to sell multi-serving hemp beverages to ultimate consumers for off-premise consumption only and not for the purpose of resale;
- an authorization for a hemp beverage permit holder that also holds a local distributor's permit to sell multi-serving hemp beverages for resale, but only to a hemp beverage permit holder that is also a mixed beverage permit holder, private club registration permit holder, or hemp retailer;

- an authorization for a multi-serving hemp beverages to be sold only to ultimate consumers by a hemp beverage permit holder that also holds a package store permit or off-premise hemp retailer's license;
- an authorization for a hemp beverage permit holder that also holds a package store permit or off-premise hemp retailer's license to deliver, or use a consumer delivery permittee that also holds a hemp beverage permit to deliver, multi-serving hemp beverages to ultimate consumers; and
- an authorization for a hemp beverage permit holder that also holds a mixed beverage permit, private club registration permit, or on-premise hemp retailer's license to use multi-serving hemp beverages to serve, mix, or pour a hemp beverage for sale to an ultimate consumer.

C.S.S.B. 3 authorizes a multi-serving hemp beverage to be sold or delivered to an ultimate consumer only if the total tetrahydrocannabinol concentration is not higher than the following amounts:

- 10 milligrams per ounce for container sizes less than or equal to 1.5 liters; or
- one milligram per ounce for container sizes greater than 1.5 liters for beverages marketed as a pre-mixed hemp cocktail.

In addition to any other applicable requirements in the Alcoholic Beverage Code, a multi-serving hemp beverage package:

- may not contain more than 15.5 gallons or less than 375 milliliters of multi-serving hemp beverages; and
- must clearly and conspicuously display the milligrams of delta-9 tetrahydrocannabinol in one ounce of the beverage.

### **Provisions Generally Applicable to Licenses**

C.S.S.B. 3, with respect to provisions generally applicable to licenses, narrows the applicability of certain of those provisions by replacing broad references to the Alcoholic Beverage Code with references to the licensing subtitle of the Title 3 license and permit provisions with respect to the following provisions:

- provisions establishing a license as a purely personal privilege subject to revocation and providing for succession of the license;
- provisions establishing the circumstances under which a conduct surety bond is not required;
- provisions requiring TABC, on receipt of an application, to follow the applicable application review process;
- provisions authorizing TABC to give due consideration to certain public officials protesting an application when evaluating an application;
- provisions requiring an applicant to post an outdoor sign at the applicable location not later than the 60th day before the date a license is issued stating that alcoholic beverages are intended to be served on the premises, among other information; and
- provisions regarding the denial of a license authorizing on-premises consumption on the basis of cancellation or nonrenewal as a result of a violent act.

### **Brewer's License: Malt Beverages for Export**

C.S.S.B. 3 makes statutory provisions relating to malt beverages for export inapplicable to the import or export of hemp beverages.

## General Distributor's License

### *Authorized Activities*

C.S.S.B. 3 authorizes the holder of a general distributor's license who also holds a hemp beverage permit to only distribute or sell hemp beverages to the following:

- the holder of a hemp beverage permit that is also a general distributor's license holder, branch distributor's license holder, local distributor's permit holder, package store permit holder, mixed beverage permit holder, private club registration permit holder, or a hemp retailer; and
- qualified persons outside of Texas in compliance with that state's law.

### *Malt Beverages for Use in Food Products Industry*

C.S.S.B. 3 clarifies that the authorization for the holder of a general distributor's license to sell malt beverages for use as an ingredient in the manufacturing and processing of food products does not apply to hemp beverages.

## General Distributor's License and Branch Distributor's License

### *Malt Beverages for Export*

C.S.S.B. 3 establishes that, for purposes of statutory provisions relating to malt beverages for export with respect to a general distributor's license and a branch distributor's license, the term "malt beverages for export" does not include hemp beverages that are illegal to sell in Texas because of content, containers, packages, or labels.

## Brewpub License

### *Authorized Activities*

C.S.S.B. 3 establishes the following:

- a holder of a brewpub license who also holds a hemp beverage permit may manufacture hemp beverages;
- a holder of a brewpub license who also holds a hemp beverage permit and a mixed beverage permit may sell hemp beverages to ultimate consumers as provided under these provisions; and
- a holder of a brewpub license who holds a hemp beverage permit but does not hold a mixed beverage permit may sell hemp beverages produced under the license to hemp retailers and general or branch distributors that also hold a hemp beverage permit in the same manner as the license holder may sell malt beverages under statutory provisions relating to sales by brewpub license holders to retailers and relating to sales to distributors.

## General Criminal Provisions

### *Arrest Without a Warrant*

C.S.S.B. 3 expands the requirement for a peace officer to take possession of all illicit beverages a person has in the person's possession or on the person's premises as provided by statutory provisions relating to illicit beverages prohibited to include illicit consumable hemp products among the items of which the officer is required to take possession.

### *Search and Seizure*

C.S.S.B. 3 revises the authorization for a search warrant to issue under applicable Code of Criminal Procedure provisions to search for, seize, and destroy or otherwise dispose of an illicit beverage to include the following in accordance with the Alcoholic Beverage Code:

- an illicit consumable hemp product;
- any equipment or instrumentality used, or capable or designed to be used, to manufacture an illicit consumable hemp product;
- a vehicle or instrumentality used or to be used for the illegal transportation of an illicit consumable hemp product; or
- unlawful equipment or materials used or to be used in the illegal manufacturing of an illicit consumable hemp product.

### *Alcoholic Beverages in Dry Areas*

C.S.S.B. 3 prohibits a person in a dry area with regard to consumable hemp products from manufacturing, processing, selling, importing, exporting, transporting, distributing, storing, soliciting or taking orders for, or possessing with intent to sell a consumable hemp product.

### *Containers, Packaging, and Dispensing Equipment of Malt Beverages: Labels*

C.S.S.B. 3 requires the label of a container of hemp beverages to state the following:

- the net contents in terms of ounces of liquid;
- the percentage and total amount in milligrams of each cannabinoid contained in the beverage;
- a warning that consumption of the beverage impairs a person's ability to drive a car or operate machinery, may cause health problems, and may result in a positive drug test;
- a warning that the consumer should consult a physician before consuming a hemp beverage during pregnancy as doing so is not recommended for mothers; and
- a warning that consuming alcohol and hemp beverages together may result in unanticipated severe levels of intoxication.

### *Beverages of Certain Alcohol Content Prohibited*

C.S.S.B. 3, effective September 1, 2025, prohibits a person from manufacturing, selling, bartering, or exchanging a hemp beverage that contains any alcohol by volume.

### *Prior Approval of Malt Beverages*

C.S.S.B. 3 requires the registration application for a hemp beverage to include a certificate of analysis issued by a hemp testing laboratory licensed under the bill's provisions and establishes that each different sized container of the same type of hemp beverage produced by a holder of a brewer's or nonresident brewer's license requires an individual registration with TABC.

C.S.S.B. 3, with respect to the requirement for TABC, on registration of a certificate of label approval issued by the U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), to approve the product under statutory provisions relating to prior approval of malt beverages and issue a letter to that effect to the licensee unless TABC determines the product would create a public safety concern, create a cross-tier violation, or otherwise violate the Alcoholic Beverage Code, specifies that TABC is also required to do so on registration of a certificate of analysis issued by a hemp testing laboratory, as applicable, and also conditions the approval on the TABC determination of whether the product, despite having a certificate of analysis, would create a public safety concern, create a cross-tier violation, or otherwise violate the Alcoholic Beverage Code. The bill expands the conditions under which the licensee submitting an application is entitled to an administrative hearing before SOAH, if TABC denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the

required 30-day deadline, to include TABC's denial of the application for a product with a certificate of analysis issued by a hemp testing laboratory. The bill requires TABC by rule to establish procedures for accepting certificates of analysis issued by a hemp testing laboratory for registration with TABC as a malt beverage. The bill makes the requirement for TABC by rule to establish such procedures for the following inapplicable to hemp beverages:

- registering alcoholic beverage products that are not eligible to receive a certificate of label approval issued by TTB; and
- registering alcoholic beverage products during periods when TTB has ceased processing applications for a certificate of label approval.

#### *Label Approval Not Required for Certain Malt Beverages*

C.S.S.B. 3 makes expressly inapplicable to hemp beverages the Alcoholic Beverage Code provisions establishing the conditions under which label approval is not required for certain malt beverages.

#### *Hemp Beverage Authorization*

C.S.S.B. 3 requires TABC to do the following:

- by rule develop a process by which a sample representing a hemp beverage is tested and approved by TABC before the beverage is made available for sale or otherwise introduced into commerce in Texas;
- in approving a hemp beverage, ensure that the hemp beverage is labeled in accordance with the requirements of the following provisions:
  - Alcoholic Beverage Code provisions relating to containers, packaging, and dispensing equipment of malt beverages; and
  - the bill's provisions relating to product labeling requirements and product packaging prohibitions;
- ensure that each hemp beverage container, including containers for multi-serving hemp beverages, as that term is defined under the bill's provisions relating to multi-serving hemp beverage containers, has a delta-9 tetrahydrocannabinol content that complies with the requirements of the Alcoholic Beverage Code; and
- use hemp testing laboratories licensed under the bill's provisions to conduct testing.

#### *Common Nuisance*

C.S.S.B. 3 establishes that a room, building, boat, structure, or other place where consumable hemp products are sold, bartered, manufactured, stored, possessed, or consumed in violation of the Alcoholic Beverage Code or under circumstances contrary to the purposes of the code, the products themselves, and all property kept or used in the place, are a common nuisance. With respect to a suit to abate and temporarily and permanently enjoin such a nuisance brought by the county or district attorney where the nuisance exists or by the attorney general in the name of the state that results in a final judgment against the defendant ordering that the place where the nuisance exists be closed for one year or less and until the owner, lessee, tenant, or occupant gives bond with sufficient surety as approved by the court in the penal sum of at least \$1,000 payable to the state, the bill provides that such a bond, with respect to the consumption of consumable hemp products, must be payable to the state and conditioned on the following:

- that the Alcoholic Beverage Code will not be violated;
- that no person will be permitted to resort to the place to consume consumable hemp products in violation of the code; and
- that the defendant will pay all fines, costs, and damages assessed against the defendant for any violation of the code.

### *Inspection of Vehicle*

C.S.S.B. 3 prohibits a holder of a license issued under the bill's provisions relating to consumable hemp products from refusing to allow TABC or its authorized representative or a peace officer, on request, to make a full inspection, investigation, or search of any vehicle.

### **Illicit Beverages**

#### Illicit Consumable Hemp Products

C.S.S.B. 3 establishes that, for purposes of statutory provisions relating to illicit beverages, references to an "illicit beverage" include an illicit consumable hemp product.

### **Provisions Relating to Age**

#### Certain Provisions Related to Consumable Hemp Products

C.S.S.B. 3, effective September 1, 2025, establishes that, for purposes of Alcoholic Beverage Code provisions relating to provisions relating to age, the term "consumable hemp product" includes natural hemp flower, as that term is defined by the bill's general provisions relating to consumable hemp products, that is packaged for and sold at retail.

#### Purchase or Attempt to Purchase a Consumable Hemp Product by a Minor

C.S.S.B. 3, effective September 1, 2025, creates a Class C misdemeanor offense for a minor to purchase and, by virtue of the creation of this offense, creates a Class C misdemeanor offense for a minor to attempt to purchase a consumable hemp product. The bill subjects such offenses to enhancement in the same manner as the current offenses of purchasing or attempting to purchase an alcoholic beverage by a minor. The bill creates an exception to the application of the offense of purchasing a consumable hemp product by a minor for a minor that purchases such a product under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of the Alcoholic Beverage Code.

#### Sale to Minors

C.S.S.B. 3, effective September 1, 2025, creates a Class A misdemeanor offense for a person, with criminal negligence, to sell a consumable hemp product to a minor. The bill creates an exception to the application of the offense for a person that sells a consumable hemp product to a minor who falsely represents the minor to be 21 years old or older by displaying an apparently valid proof of identification. The bill makes that exception inapplicable to a person who accesses electronically readable information under the bill's provisions relating to electronic verification of consumer's identification, with regard to a hemp beverage or consumable hemp product, that identifies a driver's license or identification certificate as invalid.

#### Consumption of Consumable Hemp Product by a Minor

C.S.S.B. 3, effective September 1, 2025, creates an offense that is punishable in the same manner as an offense for consumption of alcohol by a minor for a minor who consumes a consumable hemp product, makes provisions applicable to an offense for consumption of alcohol by a minor and the same exceptions to such applicability applicable to the consumable hemp product offense, subjects that offense to enhancement in the same manner as the current offense of consumption of alcohol by a minor is enhanced, and makes a minor who commits such a consumable hemp product offense who has been convicted twice or more of offenses under this bill provision ineligible for deferred disposition, subject to the same conditions applicable to an offense for consumption of alcohol by a minor.

### Possession of Consumable Hemp Product by a Minor

C.S.S.B. 3, effective September 1, 2025, creates an offense that is punishable in the same manner as an offense for possession of alcohol by a minor for a minor who possesses a consumable hemp product, makes provisions applicable to an offense for possession of alcohol by a minor and the same exceptions to such applicability applicable to the consumable hemp product offense, and subjects that offense to enhancement in the same manner as the current offense of possession of alcohol by a minor is enhanced.

### Purchase of Consumable Hemp Product for a Minor; Furnishing Consumable Hemp Product to a Minor

C.S.S.B. 3, effective September 1, 2025, creates a Class A misdemeanor offense for a person who purchases a consumable hemp product for or gives a consumable hemp product to a minor, makes provisions applicable to an offense for purchasing or furnishing alcohol to a minor and the same exceptions to such applicability applicable to the consumable hemp product offense, and subjects that offense to enhancement to a state jail felony and to other applicable requirements in the same manner as the current offense for purchasing or furnishing alcohol to a minor. The bill does the following with respect to the requirement for a judge who places a defendant charged with the offense on community supervision, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol, in addition to any other condition imposed by the judge, to take certain actions:

- expands that requirement to include forcing or coercing individuals to consume consumable hemp products; and
- expands the requirement for the judge to require the defendant to attend an alcohol awareness program to include as an alternative a substance misuse education program under applicable Transportation Code provisions.

### Misrepresentation of Age by a Minor

C.S.S.B. 3, effective September 1, 2025, creates an offense for a minor who falsely states that the minor is 21 years of age or older or presents any document that indicates the minor is 21 years of age or older to a person engaged in selling or serving consumable hemp products and makes provisions applicable to an offense for misrepresentation of age by a minor with regard to the sale or service of alcoholic beverages applicable to the consumable hemp product offense.

### Importation by a Minor

C.S.S.B. 3, effective September 1, 2025, prohibits a minor from importing into Texas or possessing with intent to import into Texas any consumable hemp product.

### Alcohol Awareness Program and Substance Misuse Education Program

C.S.S.B. 3, effective September 1, 2025, makes applicable to a minor who is placed on deferred disposition for certain consumable hemp product-related offenses the provision authorizing the court, if the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to allow the defendant to take an online alcohol awareness program approved by the Texas Department of Licensing and Regulation or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment instead of attending the applicable program. The bill includes in that provision an authorization for the court to include an online substance misuse education program if the defendant resides in such a county and access to a substance misuse education program is not readily available. Additionally, the court may require the defendant, as an alternative to the program, to perform not less than eight hours of community service related to drug abuse prevention or treatment.

### Sanctions Against Retailer

C.S.S.B. 3, effective September 1, 2025, does the following with respect to the authorization for TABC or the administrator of TABC to cancel or suspend for not more than 90 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee with criminal negligence sold, served, dispensed, or delivered an alcoholic beverage to a minor or with criminal negligence permitted a minor to violate the offense of consumption of alcohol by a minor or the offense of possession of alcohol by a minor on the licensed premises:

- specifies that the retail license or permit is issued under the Alcoholic Beverage Code; and
- includes the sale, service, dispensing, or delivery of a consumable hemp product with criminal negligence by the licensee or permittee to a minor among such findings.

### Actions of an Employee

C.S.S.B. 3 establishes that an employee's actions are not attributable to the employer if the employee sells, serves, dispenses, or delivers hemp beverages as authorized under the bill's provisions relating to hemp beverage permits on the employer's premises and the employee has attended the annual hemp beverage training required under the bill's provisions relating to retail sale of hemp beverage training program.

### Actions of an Employee of a Hemp Retailer

C.S.S.B. 3, for purposes of statutory provisions relating to age and any other provision of the Alcoholic Beverage Code relating to the sale, service, dispensing, or delivery of consumable hemp products to a minor or an intoxicated person or the consumption of consumable hemp products by a minor or an intoxicated person, prohibits the actions of an employee from being attributable to the employer if the following criteria apply:

- the employee has attended the mandatory training under the bill's provisions relating to the retail sale of consumable hemp products training program within the last year; and
- the employer has not directly or indirectly encouraged the employee to violate such law.

## **Transportation and Importation**

### Importation for Personal Use

C.S.S.B. 3 establishes that Alcoholic Beverage Code provisions relating to the importation specified amounts of certain alcoholic beverages for personal use expressly do not authorize the importation of a hemp beverage for personal use.

### Importation of Personal Collection

C.S.S.B. 3 establishes that Alcoholic Beverage Code provisions relating to importation of a personal collection by a person who is relocating a household expressly do not authorize the importation of a hemp beverage as part of a person's household goods.

## **Miscellaneous Regulatory Provisions**

### Sale of Salvaged or Insured Losses

#### *Sale of Salvaged or Insured Loss of Consumable Hemp Products*

C.S.S.B. 3 makes applicable to consumable hemp products acquired by a person who does not hold a permit or license to sell those products the Alcoholic Beverage Code provision



authorizing a person, if the person does not hold a permit or license to sell alcoholic beverages and acquires possession of those beverages as an insurer or insurance salvor in the salvage or liquidation of an insured damage or loss sustained in Texas by a qualified licensee or permittee, to sell alcoholic beverages in one lot or parcel as provided under the code's provisions relating to salvaged and insured losses without being required to obtain a license or permit.

#### *Registration of Consumable Hemp Products With TABC by an Insurer or Insurance Salvor*

C.S.S.B. 3 makes applicable to an insurer or insurance salvor who takes possession of consumable hemp products the Alcoholic Beverage Code provision requiring an insurer or insurance salvor, immediately after taking possession of applicable alcoholic beverages, to register them with TABC, furnishing TABC a detailed inventory and the exact location of the beverages, and requiring the insurer or salvor to post with TABC a surety bond in an amount that the administrator of TABC finds adequate to protect the state against the taxes due on the beverages, if any are due, to remit with the registration a \$10 fee, and specifying that the fee only permits the sale of the beverages listed in the registration.

#### *Prerequisite to Salability of Consumable Hemp Products*

C.S.S.B. 3 establishes that a consumable hemp product is salable under Alcoholic Beverage Code provisions relating to salvaged and insured losses only if it has not been adulterated, it is fit for human consumption, all tax stamps required by law have been affixed, and the labels are legible as to contents, brand, and manufacturer.

#### *Sale of Consumable Hemp Products: Procedure*

C.S.S.B. 3 requires TABC, when TABC is notified under Alcoholic Beverage Code provisions relating to salvaged or insured losses of the acquisition of consumable hemp products or their containers or original packages, to immediately notify a holder of a hemp distributor's license who handles the brand of consumable hemp products or the holder of the hemp manufacturer's license who produced the products.

C.S.S.B. 3 requires the insurer or insurance salvor, TABC, and the distributor or manufacturer to jointly agree whether the consumable hemp products are salable and, if those products are determined to be unsalable, requires TABC to destroy the products. The bill requires the products, if determined to be salable, to first be offered for sale to the manufacturer or distributor at their cost price, less any state taxes that have been paid on the products.

C.S.S.B. 3 authorizes the insurer or insurance salvor, if the distributor or manufacturer does not exercise the right to purchase the consumable hemp products within 10 days after being given the opportunity to purchase, to sell the products to any qualified consumable hemp product licensee in the same manner provided for the sale of alcoholic beverages under statutory provisions relating to sale of salvaged or insured losses.

#### *Purchaser's Right to Use Consumable Hemp Products*

C.S.S.B. 3 makes applicable to a permittee or licensee who purchases consumable hemp products the Alcoholic Beverage Code provision authorizing a permittee or licensee who purchases alcoholic beverages under the code's provisions relating to salvaged and insured losses to treat them as other alcoholic beverages acquired by the permittee or licensee as provided in the code.

#### Home Production of Wine or Malt Beverages: Hemp Beverages

C.S.S.B. 3, effective September 1, 2025, replaces the Alcoholic Beverage Code provision authorizing the head of a family or an unmarried adult to produce for the person's use or the use

of the person's family not more than 200 gallons of wine or malt beverages per year without a license or permit with a provision authorizing that person to produce for such use not more than 200 gallons of wine or malts beverages, not including hemp beverages, per year.

### **Consumable Hemp Products Tax**

C.S.S.B. 3 set out provisions that impose a consumable hemp products tax that take effect on January 1, 2027.

#### Tax on Consumable Hemp Products

C.S.S.B. 3 imposes a tax on the first sale of a consumable hemp product at the rate of two cents per 2.5 milligrams of delta-9 tetrahydrocannabinol contained in the consumable hemp product.

#### Timely Filing; Diligence

C.S.S.B. 3 establishes that a person filing a report or making a tax payment complies with the filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised reasonable diligence to comply with the filing requirements and the failure to file or the making of a late payment is not the fault of the person.

#### "First Sale" Defined

C.S.S.B. 3 defines "first sale" as the first sale of a consumable hemp product by the holder of a hemp manufacturer's license or an out-of-state hemp manufacturer's license to the following:

- a hemp manufacturer's license holder;
- a hemp distributor's license holder;
- a hemp retailer; or
- an ultimate consumer in Texas for consumption on or off the manufacturer's licensed premises.

#### Payment of Tax; Discounts

C.S.S.B. 3 requires the tax on a consumable hemp product, levied and computed under the bill's provisions, to be paid by a remittance payable to the comptroller and forwarded together with any required sworn statement or report of taxes due to TABC in Austin on or before the date it is due. The bill requires a discount of two percent of the amount due to be withheld by the licensee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

#### Due Date

C.S.S.B. 3 establishes that the tax on a consumable hemp product is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

#### Summary Suspension

C.S.S.B. 3 authorizes TABC to summarily suspend, without a hearing, the license of a licensee who fails to file a report or return or to make the tax payment required by the bill's provisions. The Administrative Procedure Act does not apply to TABC in the enforcement and administration of these summary suspension provisions. The bill establishes that a suspension under these provisions takes effect on the third day after the date the notice of suspension is given and requires the notice to be given to the licensee or the licensee's agent or employee by registered or certified mail if not given in person. The bill requires TABC to terminate a suspension made under these provisions when the licensee files all required returns and makes all required tax payments that are due.

### Exemption From Tax

C.S.S.B. 3 exempts a consumable hemp product shipped out of Texas for consumption outside of Texas from taxation and requires TABC to provide forms for claiming the exemption prescribed by these provisions. The bill requires a tax credit to be allowed for payment of any unintended or excess tax.

### Refund Due on Disposition Outside of State

C.S.S.B. 3 authorizes the holder of any license authorizing the transportation of consumable hemp products out of Texas to apply to TABC for a refund of the tax paid on a consumable hemp product on proper proof that the product was sold or disposed of outside of Texas.

### Excess Tax

C.S.S.B. 3 entitles a licensee to a refund of or a tax credit on a future tax payment for any excess tax paid on a consumable hemp product through oversight, mistake, error, or miscalculation.

### Tax Credits and Refunds

C.S.S.B. 3 requires TABC to do the following:

- provide by rule for the equitable and final disposition of tax refunds or credits when the tax on a consumable hemp product is overpaid or paid by mistake; and
- prescribe the time and manner for filing claims for credits and refunds and provide appropriate forms.

### Statements

C.S.S.B. 3 authorizes TABC to require the manufacturer of a consumable hemp product processed or manufactured in Texas or imported into Texas to provide information as to purchases, sales, and shipments to enable TABC to collect the full amount of the tax due on the consumable hemp product. No licensee may fail or refuse to furnish this information. The bill authorizes TABC to seize or withhold from sale the manufacturer's consumable hemp products for failure or refusal to supply the information or to permit TABC to make an investigation of pertinent records whether inside or outside Texas.

### Sale of Untaxed Consumable Hemp Products Prohibited

C.S.S.B. 3 establishes that no person may sell, offer for sale, or store for the purpose of sale in Texas any consumable hemp product on which the tax, if due, has not been paid.

### Tax on Unsalable Consumable Hemp Products

C.S.S.B. 3 establishes that no tax on consumable hemp products may be imposed or collected on a consumable hemp product that for any reason has been found and declared to be unsalable by TABC or the administrator of TABC. The bill entitles a hemp manufacturer or an out-of-state hemp manufacturer to a refund of any tax the manufacturer paid on an unsalable consumable hemp product.

### Evidence in Suit

C.S.S.B. 3 establishes that, in a suit brought to enforce the collection of tax owed by the holder of a license authorizing the sale of consumable hemp products in Texas, a certificate by TABC or the TABC administrator showing the delinquency is prima facie evidence of the following:

- the levy of the tax or the delinquency of the stated amount of tax and penalty; and

- compliance by TABC with the Alcoholic Beverage Code provisions relating to the computation and levy of the tax.

### Penalty

C.S.S.B. 3 creates a misdemeanor offense for a person who violates any of the bill's provisions relating to the consumable hemp products tax, except for provisions relating to the refund due on disposition outside of Texas or the prohibition against the sale of untaxed consumable hemp products, which on conviction is punishable by a fine of more than \$100 but not more than \$1,000 or by imprisonment in the county jail for more than 30 days but not more than one year. However, the bill establishes that a violation of those provisions is punishable in accordance with applicable state law relating to general penalties for violations of provisions of the Alcoholic Beverage Code for which a specific penalty is not provided.

### Consumable Hemp Products Tax Distribution

C.S.S.B. 3 requires the revenue attributable to the consumable hemp products tax and sales and use taxes on consumable hemp products to be deposited to the credit of the general revenue fund. Money deposited under these provisions may be appropriated only as follows:

- one-half of the revenue to TABC for the administration and enforcement of the Alcoholic Beverage Code with respect to consumable hemp products;
- one-fourth of the revenue to accredited crime laboratories; and
- one-fourth of the revenue to support opioid and narcotic response services by local law enforcement agencies.

The bill establishes that Alcoholic Beverage Code provisions relating to revenue allocation and the provisions of the Limited Sales, Excise, and Use Tax Act relating to the disposition of proceeds collected from the sales and use tax do not apply to revenue to which these tax distribution provisions apply.

### **Hemp Beverage Tax**

C.S.S.B. 3 expressly excludes hemp beverages from the malt beverages tax but establishes a hemp beverage tax to be imposed on the first sale of a hemp beverage manufactured in Texas or imported into Texas at the rate of two cents per 2.5 milligrams of delta-9 tetrahydrocannabinol contained in the hemp beverage.

### Hemp Beverage Tax Distribution

C.S.S.B. 3 requires the revenue attributable to taxes on hemp beverages imposed under the bill's provisions, under the Limited Sales, Excise, and Use Tax Act as provided under the bill's provisions, and under provisions relating to the mixed beverage taxes as provided under the bill's provisions to be deposited to the credit of the general revenue fund. The bill restricts the appropriation of money deposited under these provisions as follows:

- one-half of the revenue to TABC for the administration and enforcement of the Alcoholic Beverage Code with respect to hemp beverages;
- one-fourth of the revenue to accredited crime laboratories; and
- one-fourth of the revenue to support opioid and narcotic response services by local law enforcement agencies.

The bill makes the following provisions expressly inapplicable to revenue to which these bill provisions regarding hemp beverage tax distribution applies:

- Alcoholic Beverage Code provisions relating to disposition of receipts from the sale of tax stamps and funds derived from taxes on distilled spirits, wine, beer, and ale and malt liquor;
- Tax Code provisions relating to the disposition of certain proceeds from the collection of taxes imposed under the Limited Sales, Excise, and Use Tax Act; and

- Tax Code provisions relating to disposition of proceeds regarding the mixed beverage tax clearance fund, the allocation of certain revenue for certain specialty court programs, and the allocation of certain revenue to the sexual assault program fund.

## **Local Option Status Under Alcoholic Beverage Code**

### Wet and Dry Areas

C.S.S.B. 3 establishes the following:

- an area is a "dry area" as to consumable hemp products if the sale of the products is unlawful in the area;
- an area is a "wet area" as to consumable hemp products if the sale of the products is lawful in the area;
- in an information, complaint, or indictment, an allegation that an area is a dry area as to a particular type of hemp beverage or consumable hemp product is sufficient, but a different status of the area may be urged and proved as a defense;
- a vote to prohibit or legalize the sale of alcoholic beverages, mixed beverages, or malt beverages does not determine whether the sale of hemp beverages is prohibited or legal; and
- an authorized voting unit's status regarding hemp beverages is determined as provided by the bill's provisions relating to the sale of hemp beverages.

### Change of Status

C.S.S.B. 3 includes hemp beverages and consumable hemp products among the products for which an authorized voting unit that has exercised or may exercise the right of local option retains the status adopted, whether absolute prohibition or legalization of the sale of such products, until that status is changed by a subsequent local option election in the same authorized voting unit.

### Prevailing Status: Resolution of Conflicts

C.S.S.B. 3 makes applicable to the status of the sale of hemp beverages and consumable hemp products the Alcoholic Beverage Code provision setting out certain actions that ensure that each voter has the maximum possible control over the status of the sale of alcoholic beverages in the area where the voter resides.

### Change in Precinct Boundaries

C.S.S.B. 3 makes applicable to a local option election on the sale of hemp beverages and consumable hemp products the Alcoholic Beverage Code provision requiring that a newly created justice precinct, for purposes of a local option election, be considered to have not held the applicable election on the sale of alcoholic beverages.

### Sale of Hemp Beverages

C.S.S.B. 3 authorizes the sale of hemp beverages in each authorized voting unit in Texas unless that status is changed by a local option election in the same authorized voting unit. The bill establishes that an authorized voting unit that has exercised the right of local option election retains the status adopted, whether prohibition or legalization of the sale of hemp beverages, until that status is changed by a subsequent local option election in the same authorized voting unit.

### Sale of Consumable Hemp Products

C.S.S.B. 3 authorizes the sale of consumable hemp products in each authorized voting unit in Texas unless that status is changed by a local option election in the same authorized voting unit. The bill establishes that an authorized voting unit that has exercised the right of local option election retains the status adopted, whether prohibition or legalization of the sale of consumable hemp products, until that status is changed by a subsequent local option election in the same authorized voting unit.

### Continuance of Operation as Hemp Manufacturer or Distributor

C.S.S.B. 3 prohibits a person who has been issued a hemp manufacturer's license from subsequently being denied an original or renewal hemp manufacturer's license for the same location on the ground that the sale of consumable hemp products has been prohibited in the area by a local option election. The bill authorizes a person holding a license at the time of the election or issued a license as authorized by these provisions to exercise all privileges granted by the Alcoholic Beverage Code to the holder of a hemp manufacturer's license, except selling consumable hemp products to ultimate consumers.

C.S.S.B. 3 prohibits a person who has been issued a hemp distributor's license, whose warehouse or other facility used in connection with the distributorship is located in the area affected, from subsequently being denied an original or renewal hemp distributor's license for the same location on the ground that the sale of consumable hemp products has been prohibited in the area by a local option election. The bill authorizes a person holding a license at the time of the election or issued a license as authorized by these provisions to exercise all privileges granted by the Alcoholic Beverage Code to the holder of a hemp distributor's license, except that the distributor may sell or deliver consumable hemp products only to licensed persons located where the sale of such products is legal.

### **Local Option Elections on the Sale of Consumable Hemp Products or Hemp Beverages**

C.S.S.B. 3 amends the Election Code to authorize certain political subdivisions of the state to hold local option elections to prohibit or legalize the sale of consumable hemp products or hemp beverages and to set out related provisions.

### Definitions

C.S.S.B. 3, for purposes of provisions relating to local option elections, defines "consumable hemp product" and "hemp beverage" by reference to their meanings assigned by the bill's Alcoholic Beverage Code provision that sets out definitions are applicable to the entire Alcoholic Beverage Code.

### Election to Be Held by Petition

C.S.S.B. 3 establishes that, on proper petition by the required number of voters of a county, justice precinct, or municipality in the county, the commissioners court must order a local option election in the political subdivision to determine whether the sale of consumable hemp products or hemp beverages shall be prohibited or legalized in the political subdivision.

### Applications for Petitions Calling for Local Option Elections

C.S.S.B. 3 makes applicable to the determination of whether the sale of consumable hemp products or hemp beverages shall be prohibited or legalized in a subdivision the Election Code provision that requires an applicable county clerk, if 10 or more qualified voters of any county, justice precinct, or municipality file a written application and provide proof of publication of notice in a newspaper of general circulation in that political subdivision, to issue to the

applicants a petition to be circulated among the qualified voters of the political subdivision for the signatures of those qualified voters who desire that a local option election be called for the purpose of determining whether the sale of alcoholic beverages must be prohibited or legalized in the applicable political subdivision. The bill makes conforming changes to reflect these revised requirements in provisions relating to the following:

- the heading and statement that an application for a petition seeking a prohibitory election must contain;
- the heading and statement that an application for a petition seeking a legalization election must contain;
- the heading and statement that a petition seeking a prohibitory election must contain; and
- the heading and statement that a petition seeking a legalization election must contain.

#### Election Orders and Ballot Issues

C.S.S.B. 3 revises the Election Code provisions specifying the content of an election order for a local option election regarding the issues to appear in the order for election with respect to alcoholic beverages by requiring the order for an applicable local option election to state in its heading and text whether the local option election to be held is for the purpose of prohibiting or legalizing the sale of consumable hemp products or hemp beverages set out in the issue recited in the applicable application and petition. The bill revises provisions relating to the issue that the ballot for a local option election must contain by establishing the following with respect to local option elections to legalize or prohibit the sale of consumable hemp products or hemp beverages:

- in an area where consumable hemp products or hemp beverages are prohibited and the applicable issue submitted pertains to legalization, the ballot must be prepared to permit voting for or against "the legal sale of consumable hemp products" or "the legal sale of hemp beverages," as applicable; and
- in an area where the sale of consumable hemp products or hemp beverages has been legalized, the ballot for a prohibitory election must be prepared to permit voting for or against "the legal sale of consumable hemp products" or "the legal sale of hemp beverages," as applicable.

#### County Payment of Election Expenses

C.S.S.B. 3 revises Election Code provisions establishing that county payment of the expense of a legalization or prohibitory local option election is limited to the holding of one election in a political subdivision during a one-year period by making those provisions applicable with respect to local option elections to legalize or prohibit the sale of consumable hemp products or hemp beverages.

#### Local Option Elections in Municipalities

C.S.S.B. 3 establishes that Election Code provisions governing local option elections to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents in a municipality also apply to an election to permit or prohibit the legal sale of consumable hemp products or hemp beverages in a municipality.

#### Declaration of Results

C.S.S.B. 3 revises provisions relating to the declaration of the results of a prohibitory or legalization local option election by establishing the following with respect to a local option election to legalize or prohibit the sale of consumable hemp products or hemp beverages, as applicable:

- in a prohibitory election, if a majority of the votes cast do not favor the applicable issue, the court's order must state that the sale of consumable hemp products or hemp beverages

stated in the issue at the election is prohibited effective on the 30th day after the date the order is entered; and

- in a legalization election, if a majority of the votes cast favor the applicable issue, the legal sale of consumable hemp products or hemp beverages stated in the issue at the election is legal on the entering of the court's order.

The bill also requires a commissioners court order declaring the result of an applicable local option election and prohibiting the sale of any or all types of consumable hemp products or hemp beverages to be published by posting the order at three public places in the county or other political subdivision in which the election was held.

## **Government Code Provisions**

### Criminal History Record Information

C.S.S.B. 3 amends the Government Code, with respect to the provision entitling DSHS and the Health and Human Services Commission (HHSC) to obtain criminal history record information that relates to a person who is an applicant for a consumable hemp product manufacturer license or holder of such a license, to remove the reference to such a license and license holder to reflect the bill's repeal of Health and Safety Code provisions relating to manufacture, distribution, and sale of consumable hemp products.

## **Health and Safety Code Provisions**

### Texas Food, Drug, and Cosmetic Act

C.S.S.B. 3 amends the Health and Safety Code to remove references to Health and Safety Code provisions relating to manufacture, distribution, and sale of consumable hemp products to reflect their repeal by the bill and to replace those references with references to the bill's provisions relating to consumable hemp products in statutory provisions regarding the following:

- the applicability of the Texas Food, Drug, and Cosmetic Act to consumable hemp products and manufacturers under which an article regulated under the act may not be deemed to be adulterated solely on the basis that the article is a consumable hemp product; and
- the provision establishing that a person is not required to hold a license applicable to food manufacturers, food wholesalers, and warehouse operators if the person holds a license under the bill's provisions relating to consumable hemp products and is engaging in conduct within the scope of that license.

## **Occupations Code Provision: Requirements for Digital Licenses**

C.S.S.B. 3 updates the Occupations Code requirement, applicable to a digital license issued by a licensing authority that issues an occupational license, that the public must be able to view a license holder's digital license through a website or by using a QR code by removing the reference to the definition of that code in the Health and Safety Code provisions relating to the manufacture, distribution, and sale of consumable hemp products to reflect the repeal of those provisions by the bill and to define QR code instead by reference to the bill's definition of the term for purposes of general Alcoholic Beverage Code provisions.

## **Tax Code Provisions: Certain Hemp Beverages**

C.S.S.B. 3 amends the Tax Code to establish that, for purposes of statutory provisions relating to mixed beverage taxes and relating to items taxed by other law, a mixed beverage includes a hemp beverage as defined by reference to the bill's definition of the that term for purposes of general Alcoholic Beverage Code provisions.



## **Transportation Code Provisions**

### **Notice to Appear Required**

C.S.S.B. 3 amends the Transportation Code, with respect to the offenses for which a peace officer is required to issue a written notice to appear, includes as such an offense requiring such a notice a violation of the bill's Alcoholic Beverage Code provisions relating to the offense of possession of natural hemp flower in an open container in a motor vehicle.

### **Racing on Highway**

C.S.S.B. 3 enhances the penalty for the offense of racing on highway to a Class A misdemeanor if it is shown on the trial of the offense that the person, at the time of the offense, was in possession of an open container, as defined by the bill's Alcoholic Beverage Code provisions relating to the offense of possession of natural hemp flower in an open container in a motor vehicle.

## **Repealed Provisions**

C.S.S.B. 3 repeals Chapter 443, Health and Safety Code, effective January 1, 2027.

## **EFFECTIVE DATE**

Except as otherwise provided by the bill, January 1, 2027.

## **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 3 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

### **In General**

The substitute, effective January 1, 2027, repeals all of the provisions of the Health and Safety Code provisions regarding the manufacture, distribution, and sale of consumable hemp products. On that date, the substitute creates a new statutory framework for the regulation of products derived from hemp, including consumable hemp products and hemp beverages and the hemp-derived cannabinoids contained in those products. However, while both the substitute and the engrossed contain some similar provisions, as later described, the engrossed amended those Health and Safety Code provisions to provide for the continued regulation, within the existing statutory framework, of consumable hemp products and the hemp-derived cannabinoids contained in those products, did not provide for the regulation of hemp beverages, and, accordingly, did not include any of the substitute's provisions regarding alcoholic beverage licenses or permits, the definition of "hemp beverage," or the related fees or procedural provisions regarding the substitute's hemp beverage provisions. Moreover, the engrossed repealed only the following applicable Health and Safety Code provisions:

- the provision exempting a consumable hemp product containing the threshold concentration of the delta-9 tetrahydrocannabinol from the applicable laboratory testing;
- the provision authorizing DSHS to issue a single registration covering multiple locations owned, operated, or controlled by a person;
- the provision authorizing a person to possess, transport, sell, or purchase a consumable hemp product processed or manufactured in compliance with provisions relating to the manufacture, distribution, and sale of consumable hemp products; and
- the provision requiring the executive commissioner of the Health and Human Services Commission (HHSC) by rule to provide to a retailer of consumable hemp products fair

notice of a potential violation concerning consumable hemp products sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.

Furthermore, the substitute initially grants regulatory authority over consumable hemp products under a new statutory framework to DSHS and provides for the subsequent transfer of the grant of regulatory authority to the Texas Alcoholic Beverage Commission (TABC), but the engrossed provided for the continued regulation of consumable hemp products by DSHS and did not include any of the substitute's substantive or procedural provisions regarding TABC's regulatory authority or its powers and duties with regard to such authority.

## **Rulemaking**

The substitute includes a requirement absent from the engrossed for TABC and DSHS, as soon as practicable after the bill's effective date, to adopt the applicable rules required by the bill's provisions, whereas the engrossed required the executive commissioner of HHSC to adopt rules not later than December 1, 2025, specifically for consumer hemp product registration under the provision that was added by the engrossed.

## **"Consumable Hemp Product"**

Both the engrossed and the substitute define "consumable hemp product" but they differ as follows:

- the engrossed defined the term as a food, a drug, a device, or a cosmetic, as those terms are defined by the Texas Food, Drug, and Cosmetic Act, that contains hemp or one or more hemp-derived cannabinoids, including cannabidiol or cannabigerol; whereas
- the substitute defines the term as a food, drug, device, or cosmetic, as those terms are defined by that act, that contains hemp or one or more cannabinoids but excludes from the definition a topical product containing hemp, a hemp beverage, or natural hemp flower as that term is defined by the substitute's provisions.

## **Licenses, License Requirements, and License Fees**

The substitute provides for the following licenses, with specified license requirements and separate fees, in its new statutory framework that the engrossed did not provide for:

- a hemp manufacturer's license;
- an out-of-state hemp manufacturer's license;
- a hemp distributor's license;
- an off-premise hemp retailer's license;
- an on-premise hemp retailer's license;
- a hemp carrier's license; and
- a hemp consumer delivery license.

Whereas the engrossed applied the fee to the existing statutory framework's consumable hemp product manufacturer license, which is repealed by the substitute, the substitute applies the fee to the substitute's hemp manufacturer's license established under the substitute's new regulatory framework, subject to the applicable requirements within that framework. The fees for the applicable manufacturer's license differ as follows:

- the engrossed required an applicant for a consumable hemp product manufacturer license issued under the existing statutory framework to pay an initial licensing fee to DSHS in the amount of \$10,000 for each location where the applicant intends to process hemp or manufacture a consumable hemp product and required a consumable hemp product manufacturer license holder to pay a renewal fee to DSHS in the amount of \$10,000 for each location where the applicant intends to process hemp or manufacture a consumable hemp product before DSHS may renew that license; whereas
- the substitute establishes that a separate licensing fee is required for each place of business that manufactures, processes, imports, transports, distributes, delivers, or sells consumable hemp products and establishes that the fee for the issuance of an original or

renewal license issued under the substitute's provisions relating to consumable hemp products is \$3,000 for a hemp manufacturer's license.

### **Restriction on Manufacture of Certain Consumable Hemp Products**

The engrossed prohibited the holder of a consumable hemp product manufacturer license from manufacturing a consumable hemp product that contains any amount of a cannabinoid other than cannabidiol or cannabigerol, whereas the substitute does not include this specific manufacturing prohibition but prohibits a consumable hemp product from containing any converted synthetic cannabinoids and sets out additional consumable hemp product requirements that are not included in the engrossed.

### **Testing Requirements**

Both the engrossed and the substitute set out testing requirements applicable to consumable hemp products, with the engrossed amending current law to provide those requirements and the substitute setting out the requirements in its new regulatory framework. The testing requirements differ as follows:

- the engrossed required testing of a consumable hemp product, whereas the substitute requires testing of natural hemp flower, hemp biomass, and a hemp beverage in addition to a consumable hemp product;
- the engrossed required a sample representing the plant to be tested, as required by the executive commissioner of HHSC, before a hemp plant is processed or otherwise used in the manufacture of a consumable hemp product, whereas the substitute requires a sample representing the flower or biomass to be tested, as required by DSHS, before natural hemp flower or hemp biomass is processed, sold, or otherwise used in the manufacture of a consumable hemp product or hemp beverage;
- the engrossed required the testing to determine the concentration and identity of the cannabinoids in the plant, whereas the substitute requires the testing to determine the presence and concentration of various cannabinoids; and
- the engrossed required the testing to determine the presence and quantity of heavy metals, pesticides, microbial contamination, and any other substance prescribed by DSHS, whereas the substitute requires the testing to determine the presence and quantity of residual solvents, heavy metals, pesticides, harmful pathogens, and any other substance prescribed by DSHS rule.

In addition, both the engrossed and the substitute require that a sample representing the hemp product be tested by an applicable laboratory before the product is sold at retail or otherwise introduced into commerce in Texas but this requirement differs as follows:

- the substitute requires the testing before a hemp beverage is sold, but the engrossed did not require a beverage to be tested;
- the substitute requires the sample to represent each batch of the product or beverage to be tested, whereas the engrossed required the sample to represent the hemp product; and
- the engrossed specified that the accredited laboratory performing the test is accredited to determine the identity and concentration of any cannabinoids contained in the product, whereas the substitute does not make that specification for that capability.

The engrossed, but not the substitute, required a person that tests a consumable hemp product under this provision to report the test results to DSHS in the form and manner required by DSHS.

The engrossed specified that its requirement for testing the sample before a product is sold at retail or introduced into commerce must use post-decarboxylation, high-performance liquid chromatography, or a similar method that includes the conversion of tetrahydrocannabinolic acid into tetrahydrocannabinol to determine the total tetrahydrocannabinol concentration in a tested product, whereas the substitute requires the tetrahydrocannabinol testing procedure for natural hemp flower or hemp biomass to use post-decarboxylation or a similar method that includes the conversion of tetrahydrocannabinolic acid into delta-9 tetrahydrocannabinol as described by applicable federal regulations.

In addition, the substitute but not the engrossed, provides that before material extracted from hemp by processing, other than work in progress, is sold as or offered for sale as a consumable hemp product or hemp beverage, the material must be tested as required by DSHS to determine the following:

- the presence of harmful microorganisms; and
- the presence or quantity of:
  - any residual solvents used in processing, if applicable; and
  - any other substance prescribed by commission rule.

### **Sale or Introduction Into Commerce**

Both the engrossed and the substitute provide that certain hemp products may not be sold at retail or otherwise introduced into commerce in Texas if the product's concentration or content exceeds certain limits but the versions differ. The engrossed prohibited a consumable hemp product that contains any amount of a cannabinoid other than cannabidiol or cannabigerol from being sold at retail or otherwise introduced into commerce in Texas, but the substitute prohibits a consumable hemp product or hemp beverage other than an oil-based tincture from being sold at retail or otherwise introduced into commerce if the tetrahydrocannabinol content exceeds, subject to allowable variance rates and the measure of uncertainty, 10 milligrams of tetrahydrocannabinol in each serving or one gram of tetrahydrocannabinol in each container.

The substitute, but not the engrossed, prohibits natural hemp flower or hemp biomass that has a total tetrahydrocannabinol concentration of more than 0.3 percent by dry weight, subject to the measure of uncertainty, from being sold at retail or otherwise introduced into commerce in Texas.

In addition, the engrossed, but not the substitute, provided that if the applicable test results are not able to be made available, the seller may have the required testing performed on the product and must make the results available not only to the consumer but also to DSHS.

### **Certain Cannabidiol Oils**

The engrossed included a provision absent from the substitute that removed the prohibition on selling, offering for sale, possessing, distributing, or transporting a cannabidiol oil in Texas that contains any material extracted or derived from the plant *Cannabis sativa* L., other than from hemp produced in compliance with applicable federal law, and accordingly removed the provision excepting the cannabidiol oil containing such material from the prohibition if a sample representing such cannabidiol oil has been tested by an applicably accredited laboratory and found to have a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent. However, the substitute includes a provision absent from the engrossed that, effective September 1, 2025, prohibits a consumable hemp product that is an oil-based tincture from containing more than, subject to allowable variance rates and the measure of uncertainty, the following amounts:

- 2.5 milligrams of tetrahydrocannabinol in each one-milliliter serving; or
- 75 milligrams of tetrahydrocannabinol in each container.

The substitute does not include the provision in the engrossed that revised the provision in current law requiring DSHS and the Department of Public Safety (DPS) to establish a process for the random testing of cannabinoid oil, including cannabidiol oil, at various retail and other establishments that sell, offer for sale, distribute, or use the oil to ensure that the oil does not contain harmful ingredients, is produced in compliance with federal law, and has a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent. Accordingly, the engrossed did the following:

- removed the requirement that DPS join with DSHS in establishing such a process;
- removed the specification that the testing be random;

- removed cannabidiol oil as an oil to be randomly tested; and
- required the testing process, as revised by the engrossed, to ensure that the cannabinoid oil not contain any amount of a cannabinoid other than cannabidiol or cannabigerol rather than ensuring, as required under current law, that the oil has a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.

### **Registration of Retailers**

While the substitute requires the licensing of retailers under its new regulatory framework, the engrossed revised existing provisions of current law relating to the registration required for retailers of certain consumable hemp products as follows:

- with respect to the requirement that, before a person may sell consumable hemp products containing cannabidiol at retail in Texas, the person register with DSHS each location owned, operated, or controlled by the person at which those products are sold:
  - made the requirement applicable to the registration of a location that sells products containing a cannabinoid and removes the requirement for registration of a location that sells products containing cannabidiol; and
  - removed the provision expressly exempting from the registration requirement a person who is an independent contractor of a registrant who sells the registrant's products at retail; and
- removed the provision authorizing DSHS by rule to adopt a registration fee schedule that establishes reasonable fee amounts for the registration of a single location and multiple locations at which consumable hemp products containing cannabidiol are sold and requires the owner of a location at which consumable hemp products are sold to annually pay to DSHS a registration fee in the amount of \$20,000 for each location owned by the person at which consumable hemp products are sold.

### **Consumable Hemp Product Registration**

Both the engrossed and the substitute provide for the registration of consumable hemp products that are similar but differ as follows:

- the engrossed set the registration fee at \$500 for each consumable hemp product to be registered, whereas the substitute sets the registration fee at \$100;
- the engrossed required registration with DSHS but the substitute requires registration with TABC;
- the substitute requires the application for registration to include front and back pictures of the product, whereas the engrossed did not;
- the engrossed, but not the substitute, required DSHS to maintain an updated product registration list on the DSHS public website and required it to include front and back identifying pictures of each registered product;
- the engrossed, but not the substitute, required each product, including the container and package, if applicable, to be labeled with:
  - a QR code that links to the DSHS product registration list and to the identifying picture of the product provided on registration of the product for the purpose of confirming registration of the product and allowing verification of the product by law enforcement; and
  - the following message placed adjacent to the required QR code on the label: "SCAN QR CODE BEFORE PURCHASE";
- the substitute, but not the engrossed, specifies that, with respect to the prohibition against approval for sale or registration of a product that contains or is mixed with mushrooms, the prohibition is applicable to psychoactive mushrooms;
- the engrossed, but not the substitute, created a Class B misdemeanor for a person who distributes, delivers, sells, purchases, possesses, or uses a product that is not registered with DSHS;

- the engrossed, but not the substitute, established that a person is presumed to know a product is prohibited if the product is not on the website or does not have the QR code; and
- the engrossed required the executive commissioner of HHSC to adopt rules to implement the registration requirement, whereas the substitute requires TABC to adopt rules for the submission of and requirements for an application for registration.

The substitute does not include the procedural provisions setting a deadline of December 1, 2025, for the executive commissioner to adopt the rules or specifying that a person is not required to register a product under these provisions before January 1, 2026.

### **Deceptive Trade Practice**

Both the engrossed and substitute set out a provision establishing the circumstances under which a person commits a false, misleading, or deceptive act or practice under the Deceptive Trade Practices Act with respect to a consumable hemp product, but they differ as follows:

- the substitute makes the provision also applicable to a hemp beverage but the engrossed did not;
- the substitute makes the provision applicable if the product or beverage has a tetrahydrocannabinol content that exceeds the applicable limit established by the substitute's provisions but the engrossed did not; and
- the engrossed, but not the substitute, made the provision applicable if the product contains any amount of a cannabinoid other than cannabidiol or cannabigerol or if the product's packaging or advertising indicates that the product is for medical use.

### **Provisions Regarding Smoking**

Both the engrossed and the substitute set out provisions regarding consumable hemp products used for smoking but they differ as follows:

- the engrossed did the following:
  - revised the requirement that the rules adopted by the executive commissioner for purposes of regulating the sale of consumable hemp products, to the extent allowable by federal law, reflect certain specified principles by removing as one of the principles that the processing or manufacturing of a consumable hemp product for smoking is prohibited; and
  - created the Class B misdemeanor offense of manufacture, distribution, or sale of consumable hemp products for smoking for a person who manufactures, distributes, sells, or offers for sale a consumable hemp product for smoking; whereas
- the substitute updates the prohibition against a state agency authorizing a person to manufacture a product containing hemp for smoking to, as follows:
  - remove the reference to the repealed Health and Safety Code provisions relating to the manufacture, distribution, and sale of consumable hemp products; and
  - prohibit a state agency from authorizing a person to manufacture a product containing hemp for the burning or igniting of the hemp and inhaling the smoke or heating the hemp and inhaling the resulting vapor or aerosol.

### **Labeling Requirements**

Both the engrossed and the substitute prescribe labeling requirements for a consumable hemp product that contains or is marketed as containing cannabinoids but they differ as follows:

- the substitute makes the provision applicable to a product containing more than trace amounts of cannabinoids, whereas the engrossed did not;
- the engrossed required the product to be prepackaged or placed at the time of sale in packaging or a container that is resealable in a manner that allows the child-resistant mechanism to remain intact if the product contains multiple servings or consists of

multiple products purchased in one transaction, whereas the substitute does not include this requirement;

- the substitute requires the label to contain the common name of the product, stated clearly, prominently, and truthfully, the product ingredients, any relevant major food allergens identified in the federal Food and Drug Act, and the identity and concentration of each hemp-derived cannabinoid in the product, whereas the engrossed does not require this information;
- the substitute requires the label to contain the TABC license number of the product's manufacturer, whereas the engrossed does not require this information;
- the substitute requires the label to contain a certification that the tetrahydrocannabinol content of the product complies with state law, whereas the engrossed does not require that information but instead requires the label to contain a certification instead that there is no detectable amount of any cannabinoid other than cannabidiol or cannabigerol in the product;
- the substitute requires the label to contain a tetrahydrocannabinol warning icon adopted by TABC if the product contains tetrahydrocannabinols, whereas the engrossed did not require this information;
- the substitute, but not the engrossed, requires each consumable hemp product, including the container and package, if applicable, to be labeled with the following:
  - a QR code that links to TABC's product registration list under the bill's provisions, including the identifying pictures of the back and front of the product; and
  - the following message placed adjacent to the required QR code on the label: "SCAN QR CODE BEFORE PURCHASE"; and
- while both the substitute and the engrossed specify that the required labeling must appear on each unit of the product intended for individual retail sale, the engrossed required it to appear on the outer packaging of each unit and the substitute authorizes it to appear on any of the packaging if that unit includes inner and outer packaging.

### **Packaging Prohibitions**

Both the engrossed and the substitute prohibit marketing, advertising, selling, or causing to be sold a hemp product in a manner that is attractive to minors but they differ as follows:

- the engrossed specified that the prohibition is applicable to an edible consumable hemp product containing a hemp-derived cannabinoid, but the substitute does not make that specification; and
- the engrossed made it a Class A misdemeanor to violate the prohibition but the substitute does not make a violation of the prohibition an offense.

### **Misleading Consumable Hemp Packaging**

The substitute does not include the provision in the engrossed that created the Class A misdemeanor offense of misleading consumable hemp packaging for a person who sells or offers for sale a consumable hemp product that contains or is marketed as containing hemp-derived cannabinoids in a package that depicts any statement, artwork, or design that would likely mislead a person to believe, as follows:

- the package does not contain a hemp-derived cannabinoid; or
- the product is intended for medical use, including by depicting a green cross.

### **Retail Sale of Out-of-State Consumable Hemp Products**

The substitute does not include the provision in the engrossed specifying that, with respect to the circumstances under which retail sales of consumable hemp products processed or manufactured outside of Texas may be made in Texas when the products were processed or manufactured in another state or jurisdiction, establishes that those circumstances only apply if those products, as follows:

- do not contain any amount of a cannabinoid other than cannabidiol or cannabigerol; and
- are packaged and labeled in the manner provided by applicable state law regarding the retail sale of consumable hemp products.

**Offense: Manufacture, Delivery, or Possession With Intent to Deliver Certain Consumable Hemp Products or Hemp Beverages**

The engrossed and the substitute both create an offense for a person who knowingly manufactures, delivers, or possesses with intent to deliver certain consumable hemp products but they differ as follows:

- the substitute includes the intent to deliver hemp beverages as conduct constituting the offense, whereas the engrossed did not;
- the engrossed made the offense applicable to a hemp product that contains any amount of cannabinoid other than cannabidiol or cannabigerol, whereas the substitute makes the offense applicable to a hemp product or hemp beverage that contains synthetic or converted cannabinoids or an amount of tetrahydrocannabinol that exceeds the applicable limit established by the substitute; and
- the engrossed made the offense a third degree felony, whereas the substitute makes the offense a state jail felony.

**Offense: Possession of Certain Consumable Hemp Products or Hemp Beverages**

The engrossed and the substitute both create a Class A misdemeanor offense for a person who intentionally or knowingly possesses certain consumable hemp products but they differ as follows:

- the substitute includes the intentional or knowing possession of a hemp beverage as conduct constituting the offense; and
- the engrossed made the offense applicable to a hemp product that contains any amount of cannabinoid other than cannabidiol or cannabigerol, whereas the substitute makes the offense applicable to a hemp product or hemp beverage that contains synthetic or converted cannabinoids or an amount of tetrahydrocannabinol that exceeds the applicable limit established by the substitute.

**Offense: Sale or Distribution of Certain Consumable Hemp Products to Persons Younger Than 21 Years of Age; Provisions**

The substitute does not include the provision in the engrossed that created the Class A misdemeanor offense of sale or distribution of certain consumable hemp products to persons younger than 21 years of age for a person who, with criminal negligence, sells a consumable hemp product that contains or is marketed as containing hemp-derived cannabinoids to a person who is younger than 21 years of age. The engrossed did the following:

- made an employee of the owner of a store in which those hemp products are sold at retail criminally responsible and subject to prosecution for the offense that occurs in connection with a sale by the employee;
- established as a defense to prosecution for the offense that the person to whom the consumable hemp product was sold presented to the defendant apparently valid proof of identification;
- established that a proof of identification is satisfactory if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 21 years of age or older, and was issued by a governmental agency;
- specified that the proof of identification may include a driver's license issued by Texas or another state, a passport, or an identification card issued by a state or the federal government; and
- prohibited the owner of a store in which consumable hemp products that contain or are marketed as containing hemp-derived cannabinoids are sold, or an employee of the



owner, from displaying consumable hemp products for sale adjacent to products that are legal for children to consume.

The substitute amends Alcoholic Beverage Code provisions relating to age to include the following provisions absent from the engrossed relating to minors under 21 years of age:

- a provision establishing that, for purposes of statutory provisions relating to age, the term "consumable hemp product" includes natural hemp flower, as that term is defined by the bill's general provisions relating to consumable hemp products, that is packaged for and sold at retail;
- a provision expanding the conduct that constitutes the offense of purchase of alcohol by a minor to include the purchase of a consumable hemp product by a minor;
- with respect to the exception to the application of the offense for a minor that purchases an alcoholic beverage under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of the Alcoholic Beverage Code, a provision expanding the exception to include a minor that purchases a consumable hemp product under those circumstances;
- a provision expanding the conduct that constitutes the offense of sale to minors to include the sale of a consumable hemp product with criminal negligence to a minor;
- with respect to the exception to the application of the offense for a person that sells an alcoholic beverage to a minor who falsely represents the minor to be 21 years old or older by displaying an apparently valid proof of identification, a provision expanding the exception to include a person who sells a minor a consumable hemp product under those circumstances;
- a provision making that exception inapplicable to a person who accesses electronically readable information under the bill's provisions relating to electronic verification of consumer's identification that identifies a driver's license or identification certificate as invalid;
- a provision expanding the conduct that constitutes the offense of consumption of alcohol by a minor to include the consumption of a consumable hemp product by a minor;
- a provision establishing as an affirmative defense to prosecution for the offense that the consumable hemp product was consumed in the visible presence of the minor's adult parent, guardian, or spouse;
- a provision expanding the exception to the application of the offense to include a minor who, among other conditions, requested emergency medical assistance in response to the possible consumable hemp product overdose of the minor or another person;
- a provision expanding the conduct that constitutes the offense of possession of alcohol by a minor to include the possession of a consumable hemp product by a minor;
- a provision expanding the authorization for a minor to possess an alcoholic beverage under certain specified conditions to also authorize a minor to possess a consumable hemp product under those conditions;
- a provision expanding the conduct that constitutes the offense of purchase of alcohol for a minor or the offense of furnishing of alcohol to a minor to include purchasing or giving a consumable hemp product to a minor;
- a provision expanding the authorization for a person to purchase an alcoholic beverage for or give that beverage to a minor if the person is the minor's adult parent, guardian, or spouse, or an adult in whose custody the minor has been committed by a court, and is visibly present when the minor possesses or consumes the product, to also authorize a person to purchase a consumable hemp product for or give that product to a minor under those conditions;
- provisions doing the following with respect to the requirement for a judge who places a defendant charged with the offense on community supervision, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol, in addition to any other condition imposed by the judge, to take certain actions:
  - expanding that requirement to include forcing or coercing individuals to consume consumable hemp products; and

- expanding the requirement for the judge to require the defendant to attend an alcohol awareness program to include as an alternative a substance misuse education program under applicable Transportation Code provisions;
- a provision expanding the conduct that constitutes the offense of misrepresentation of age by a minor who falsely states that the minor is 21 years of age or older or presents any document that indicates the minor is 21 years of age or older to a person engaged in selling or serving alcoholic beverages to include a minor who does so to a person engaged in selling or serving consumable hemp products;
- a provision expanding the prohibition against a minor importing into Texas or possessing with intent to import into Texas any alcoholic beverage to include any consumable hemp product;
- a provision expanding the authorization for the court, with respect to a minor who is placed on deferred disposition for an offense of consumption of alcohol by a minor, offense of possession of alcohol by a minor, or offense of misrepresentation of age, to allow the defendant, if the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to take an online alcohol awareness program approved by the Texas Department of Licensing and Regulation or require the defendant to perform not less than eight hours of community service related to alcohol abuse or treatment instead of attending the applicable program, to include an online substance misuse education program if the defendant resides in such a county and access to a substance misuse education program is not readily available;
- provisions doing the following with respect to the authorization for TABC or the commissioner of TABC to cancel or suspend for not more than 90 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee with criminal negligence sold, served, dispensed, or delivered an alcoholic beverage to a minor or with criminal negligence permitted a minor to violate the offense of consumption of alcohol by a minor or the offense of possession of alcohol by a minor on the licensed premises:
  - specifying that the retail license or permit is issued under the Alcoholic Beverage Code; and
  - including the sale, service, dispensing, or delivery of a consumable hemp product with criminal negligence by the licensee or permittee to a minor among such findings;
- a provision establishing that an employee's actions are not attributable to the employer if the employee sells, serves, dispenses, or delivers hemp beverages as authorized under the bill's provisions relating to hemp beverage permits on the employer's premises and the employee has attended the annual hemp beverage training required under the bill's provisions relating to retail sale of hemp beverage training program; and
- a prohibition against the actions of an employee being attributable to the employer if the employee has attended the mandatory training under the bill's provisions relating to retail sale of consumable hemp products training program within the last year and the employer has not directly or indirectly encouraged the employee to violate such law.

#### **Offense: Sale or Delivery of Certain Consumable Hemp Products or Hemp Beverages Near School**

The engrossed and the substitute both create the Class B misdemeanor offense for a person who sells, offers for sale, or delivers a certain consumable hemp product near a school. The provisions differ as follows:

- the engrossed makes the offense applicable to a hemp product containing a hemp-derived cannabinoid, whereas the substitute makes the offense applicable to a hemp product or a hemp beverage; and
- the engrossed specifies the offense applies in, on, or within 1,000 feet of the premises of a school, whereas the substitute specifies the offense applies in, on, or within 300 feet of the premises of a school.

**Offense: Provision of Certain Consumable Hemp Product by Courier, Delivery, or Mail Service**

The substitute does not include the provision in the engrossed that created a Class A misdemeanor offense for a person who provides a consumable hemp product containing a hemp-derived cannabinoid by courier, delivery, or mail service.

**Offense: Manufacturing or Selling Without License or Registration**

The substitute does not include the provision in the engrossed that created a third degree felony for a person who processes hemp or manufactures a consumable hemp product without a license or who sells at retail or offers for sale at retail a consumable hemp product without registering as a retailer.

**Enforcement By DSHS**

The substitute does not include the provision in the engrossed that required DSHS to receive and investigate complaints concerning violations of provisions relating to the manufacture, distribution, and sale of consumable hemp products by a consumable hemp product manufacturer license holder or a person who registers as a retailer of consumable hemp products containing cannabidiol. The engrossed authorized DSHS to do the following:

- revoke, suspend, or refuse to renew a license or registration for a violation of those provisions or a rule adopted under those provisions; and
- impose an administrative penalty in an amount not to exceed \$10,000 against a license holder or registrant for each violation of those provisions or a rule adopted under those provisions.

The engrossed established that a proceeding under these provisions is a contested case under the Administrative Procedure Act.

**Sale of Hemp Beverages**

The substitute provides that the sale of hemp beverages is authorized in each authorized voting unit in the state unless that status is changed by a local option election in the same authorized voting unit. The engrossed did not provide for these sales under these conditions.

**Sale of Consumable Hemp Products**

The substitute provides that the sale of consumable hemp products is authorized in each voting unit in the state unless that status is changed by a local option election in the same authorized voting unit. The engrossed did not provide for these sales under these conditions.

**Consumable Hemp Product Requirements**

The substitute sets out consumable hemp product requirements and requires all ingredients for a consumable hemp product to originate from within the United States unless TABC specially approves an ingredient originating from another location. The engrossed did not provide for these requirements.

**Natural Hemp Flower Requirements**

The substitute sets out natural hemp flower requirements and requires all natural hemp flower distributed and sold in Texas to be grown in Texas. The substitute prohibits a grower, manufacturer, distributor, or retailer of hemp from adding any ingredient to natural hemp flower. The engrossed did not provide for these requirements.

## **Offense: Possession of Natural Hemp Flower in Open Container in Motor Vehicle**

The substitute creates the Class C misdemeanor offense of possession of natural hemp flower in an open container in a motor vehicle for a person who knowingly possesses an open container in a passenger area of a motor vehicle that is located on a public highway, regardless of whether the vehicle is being operated or is stopped or parked. Possession by a person of one or more open containers in a single criminal episode is a single offense. The engrossed did not provide for this offense.

## **Local Option Elections**

The substitute provides for local option elections on the sale of consumable hemp products and hemp beverages under the Election Code and makes applicable to such elections the code's provisions governing local option elections for prohibiting or legalizing the sale of alcoholic beverages. The engrossed did not include any of these provisions.

## **Consumable Hemp Products Tax**

The substitute establishes a tax on consumable hemp products imposed on the first sale of a consumable hemp product at the rate of two cents per 2.5 milligrams of delta-9 tetrahydrocannabinol contained in the consumable hemp product and sets out provisions related to the imposition of that tax. The engrossed did not provide for this tax.

## **Tax on Hemp Beverages**

The substitute establishes a tax on the first sale of a hemp beverage manufactured in Texas or imported into Texas at the rate of two cents per 2.5 milligrams of delta-9 tetrahydrocannabinol contained in the hemp beverage and sets out provisions related to the imposition of that tax. The engrossed did not provide for this tax.

## **Hemp Beverage Permit**

The substitute establishes that a hemp beverage permit may be issued to the holder of a package store permit, mixed beverage permit, private club registration permit, carrier's permit, consumer delivery permit, brewer's license, nonresident brewer's license, general distributor's license, branch distributor's license, brewpub license, and hemp retailer license. The substitute sets out a fee schedule for the issuance of an original or renewal permit and sets out additional provisions related to the permit. The engrossed did not provide for this permit.

## **Hemp Beverage Authorization**

The substitute requires TABC to by rule develop a process by which a sample representing a hemp beverage is tested and approved by TABC before the beverage is made available for sale or otherwise introduced into commerce in this Texas. The engrossed did not include this provision.

## **Hemp Advisory Committee**

The substitute authorizes TABC to establish by rule an advisory committee to assist TABC in rulemaking and the development of a licensing and enforcement system for hemp beverages and consumable hemp products. The engrossed did not include this provision.

## **Additional Provisions Not in Engrossed**

The substitute includes the following provisions absent from the engrossed:

- an authorization for a holder of a brewpub license who also holds a hemp beverage permit and a mixed beverage permit to sell hemp beverages to ultimate consumers;
- an authorization for a holder of a brewpub license who holds a hemp beverage permit but does not hold a mixed beverage permit to sell hemp beverages produced under the license to hemp retailers and general or branch distributors that also hold a hemp beverage permit in the same manner as the license holder may sell malt beverages under statutory provisions relating to sales by brewpub license holders to retailers and relating to sales to distributors;
- a provision expanding the requirement for a peace officer to take possession of all illicit beverages a person has in the person's possession or on the person's premises as provided by statutory provisions relating to illicit beverages prohibited to include illicit consumable hemp products among the items of which the officer is required to take possession;
- a provision expanding the authorization for a search warrant to issue under applicable Code of Criminal Procedure provisions to search for, seize, and destroy or otherwise dispose of the following in accordance with the Alcoholic Beverage Code:
  - an illicit consumable hemp product;
  - any equipment or instrumentality used, or capable or designed to be used, to manufacture an illicit consumable hemp product;
  - a vehicle or instrumentality used or to be used for the illegal transportation of an illicit consumable hemp product; or
  - unlawful equipment or materials used or to be used in the illegal manufacturing of an illicit consumable hemp product;
- a prohibition against a person in a dry area as to consumable hemp products manufacturing, processing, selling, importing, exporting, transporting, distributing, storing, soliciting or taking orders for, or possessing with intent to sell a consumable hemp product;
- a requirement for the label of a container of hemp beverages to state certain contents and warnings;
- a prohibition against a person manufacturing, selling, bartering, or exchanging a hemp beverage that contains any alcohol by volume;
- a requirement for the registration application for a hemp beverage to include a certificate of analysis issued by a hemp testing laboratory licensed under the substitute's provisions;
- a requirement for each different sized container of the same type of hemp beverage produced by a holder of a brewer's or nonresident brewer's license to have an individual registration with TABC;
- with respect to the requirement for TABC, on registration of a certificate of label approval issued by TTB, to approve the product under statutory provisions relating to prior approval of malt beverages and issue a letter to that effect to the licensee, a specification that TABC is also required to do so on registration of a certificate of analysis issued by a hemp testing laboratory, as applicable;
- a provision expanding the condition under which the licensee submitting an application is entitled to an administrative hearing before SOAH, if TABC denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the required 30-day deadline, to include TABC's denial of the application for a product with a certificate of analysis issued by a hemp testing laboratory;
- a provision expanding the requirement for TABC by rule to establish procedures for accepting federal certificates of label approval for registration under statutory provisions relating to prior approval of malt beverages to include procedures for accepting certificates of analysis issued by a hemp testing laboratory;
- a provision making the requirement for TABC by rule to establish such procedures relating to registering alcoholic beverage products inapplicable to hemp beverages;
- a provision making statutory provisions relating to label approval not required for certain malt beverages inapplicable to hemp beverages;

- an authorization for TABC by rule to develop a process by which a sample representing a hemp beverage is tested and approved by TABC before the beverage is made available for sale or otherwise introduced into commerce in Texas;
- an authorization for TABC, in approving a hemp beverage, to ensure that the hemp beverage is labeled in accordance with the certain requirements under statutory provisions relating to containers, packaging, and dispensing equipment of malt beverages and under the bill's provisions relating to labeling requirements and packaging prohibitions;
- an authorization for TABC to ensure that each hemp beverage container, including containers for multi-serving hemp beverages as that term is defined under the bill's provisions relating to multi-serving hemp beverage containers, has a delta-9 tetrahydrocannabinol content that complies with the requirements of the Alcoholic Beverage Code;
- an authorization for TABC to use hemp testing laboratories licensed under the bill's provisions to conduct testing;
- a provision establishing that a room, building, boat, structure, or other place where consumable hemp products are sold, bartered, manufactured, stored, possessed, or consumed in violation of the Alcoholic Beverage Code or under circumstances contrary to the purposes of that code, the products themselves, and all property kept or used in the place, are a common nuisance;
- a provision expanding the requirement for a bond relating to common nuisance to be payable to the state and conditioned that no person will be permitted to resort to the place to drink alcoholic beverages in violation of the Alcoholic Beverage Code to include the consumption of consumable hemp products in violation of that code; and
- a prohibition against a holder of a license issued under the bill's provisions relating to consumable hemp products refusing to allow TABC or its authorized representative or a peace officer, on request, to make a full inspection, investigation, or search of any vehicle.

### **Illicit Consumable Hemp Products**

The substitute includes a provision absent from the engrossed establishing that for purposes of statutory provisions relating to illicit beverages, references to an "illicit beverage" include an illicit consumable hemp product.

### **Transportation and Importation**

The substitute includes the following provisions absent from the engrossed:

- a provision establishing that statutory provisions relating to importation for personal use expressly do not authorize the importation of hemp beverages for personal use; and
- a provision establishing that statutory provisions relating to importation of personal collection expressly do not authorize the importation of a hemp beverage as part of a person's household goods.

### **Miscellaneous Regulatory Provisions**

The substitute includes the following provisions absent from the engrossed:

- a provision expanding the authorization for a person, if the person does not hold a permit or license to sell alcoholic beverages acquires possession of those beverages as an insurer or insurance salvor in the salvage or liquidation of an insured damage or loss sustained in Texas by a qualified licensee or permittee, to sell alcoholic beverages in one lot or parcel as provided under statutory provisions relating to salvaged and insured losses without being required to obtain a license or permit, to include consumable hemp products acquired by a person who does not hold a permit or license to sell those products;

- a provision expanding the requirement for the insurer or insurance salvor, immediately after taking possession of the alcoholic beverages, to register them with TABC, furnishing TABC a detailed inventory and the exact location of the beverages, to include consumable hemp products;
- a provision establishing that a consumable hemp product is salable under statutory provisions relating to salvaged and insured losses only if it has not been adulterated, it is fit for human consumption, all tax stamps required by law have been affixed, and the labels are legible as to contents, brand, and manufacturer;
- a requirement for TABC, when TABC is notified under statutory provisions relating to salvaged or insured losses of the acquisition of consumable hemp products or their containers or original packages, to immediately notify a holder of a hemp distributor's license who handles the brand of consumable hemp products or the holder of the hemp manufacturer's license who produced the products;
- a requirement for the insurer or insurance salvor, TABC, and the distributor or manufacturer to jointly agree whether the consumable hemp products are salable;
- a requirement for TABC to destroy those products if the products are determined to be unsalable;
- a requirement for the products, if determined to be salable, to first be offered for sale to the manufacturer or distributor at their cost price, less any state taxes that have been paid on the products;
- an authorization for the insurer or insurance salvor, if the distributor or manufacturer does not exercise the right to purchase the consumable hemp products within 10 days after being given the opportunity to purchase, to sell the products to any qualified consumable hemp product licensee in the same manner provided for the sale of alcoholic beverages under statutory provisions relating to sale of salvaged or insured losses;
- a provision expanding the authorization for a permittee or licensee who purchases alcoholic beverages under statutory provisions relating to salvaged and insured losses to treat them as other alcoholic beverages acquired by the permittee or licensee as provided by the Alcoholic Beverage Code to include such a permittee or licensee who purchases consumable hemp products; and
- a provision specifying that the authorization for the head of a family or an unmarried adult to produce for the person's use or the use of the person's family not more than 200 gallons of wine or malt beverages per year with no license or permit does not include hemp beverages.

### **Saving Provision**

The substitute does not include the provision in the engrossed providing that the engrossed applies to the manufacture, sale, delivery, or possession of a consumable hemp product that occurs on or after the bill's effective date and providing that the manufacture, sale, delivery, or possession of a consumable hemp product that occurs before the bill's effective date is governed by the law in effect on the date the manufacture, sale, delivery, or possession occurred, and the former law is continued in effect for that purpose.

### **Effective Date**

The substitute changes the bill's effective date from September 1, 2025, as in the engrossed, to January 1, 2027, except as otherwise provided by the bill.