

By: Cain

H.B. No. 4242

A BILL TO BE ENTITLED

AN ACT

relating to the production, sale, distribution, delivery, and regulation of hemp; creating a criminal offense.

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

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

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

(b) The account consists of:

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

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

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

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

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

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

(c) The department may accept appropriations and gifts, grants, or donations from any source to administer and enforce this

1 chapter as it applies to consumable hemp products. Money received
2 under this subsection shall be deposited in the account.

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

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

8 Sec. 443.103. APPLICATION; ISSUANCE. An individual or
9 establishment may apply for a license under this subchapter by
10 submitting an application to the department on a form and in the
11 manner prescribed by the department. The application ~~[must be~~
12 ~~accompanied by]~~ shall include:

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

17 (2) written consent from the applicant or the property
18 owner if the applicant is not the property owner allowing the
19 department, the Department of Public Safety, and any other state or
20 local law enforcement agency to enter onto the ~~[all]~~ premises
21 during normal business hours ~~[where hemp is processed or consumable~~
22 ~~hemp products are manufactured]~~ to conduct a physical inspection or
23 to ensure compliance with this chapter and rules adopted under this
24 chapter;

25 (3) any reasonable fees to cover the cost of the
26 processing of the application; ~~[required by the department to be~~
27 ~~submitted with the application,]~~ and

1 (4) any other relevant information required by
2 department rule.

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

5 Sec. 443.106. EXPEDITED LICENSING PROCESS. The department
6 by rule may provide an expedited licensing process for the renewal
7 of a license in good standing or the purchaser of a business by a
8 qualifying party of a currently licensed business.

9 SECTION 4. Section 443.151, Health and Safety Code, is
10 repealed and replaced in its entirety as follows:

11 Sec. 443.151. TESTING REQUIRED. (a) To ensure consumer
12 safety, consumable hemp must be tested as provided by this section.

13 (b) Before a consumable hemp product may be distributed or
14 sold as a final product, including hemp plant material, a sample
15 representing the final product must be tested, as required by the
16 executive commissioner, to determine:

17 (1) the concentration of various cannabinoids,
18 including delta-9 tetrahydrocannabinol;

19 (2) the presence or quantity of heavy metals,
20 pesticides, microbial contaminants, mycotoxins, harmful
21 microorganisms and pathogens, and residual solvents;

22 (3) the presence of any synthetic cannabinoids meaning
23 a substance included in Penalty Group 2-A under Section 481.1031 of
24 the Health and Safety Code; and any other substance prescribed by
25 the department.

26 (c) All cannabinoid testing required under this Chapter
27 must be performed by a laboratory that is accredited by an

1 accreditation body in accordance with International Organization
2 for Standardization ISO/IEC 17025 or a comparable or successor
3 standard to determine the delta-9 tetrahydrocannabinol
4 concentration of the product.

5 SECTION 5. Section 443.152, Health and Safety Code, is
6 amended by adding Subsection (d) to read as follows:

7 (d) The executive commissioner by rule may exclude a
8 substance from the testing required under Section 443.151 that is
9 generally recognized as having no risk of contaminating a finished
10 consumable hemp product, including a microorganism or other
11 substance that is inevitably destroyed or removed while processing
12 or manufacturing the product.

13 SECTION 6. Section 443.201, Health and Safety Code, is
14 amended by adding Subsections (c), (d), and (e) to read as follows:

15 (c) A person may transport and deliver a consumable hemp
16 product in compliance with this chapter to a lawful purchaser of the
17 product. The person transporting the consumable hemp product shall
18 maintain documentation during transport to demonstrate the
19 transaction complies with this chapter. The person transporting
20 and the consumable hemp product is not required to:

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

23 (2) register under Section 443.2025, unless the person
24 sells the product delivered.

25 (d) A person may not manufacture, transport or sell a
26 non-compliant consumable hemp product in this state.

27 (e) To the extent this Section conflicts with Chapter 481,

1 the Texas Controlled Substances Act, Chapter 481 shall prevail.

2 SECTION 7. Section 443.2025, Health and Safety Code, is
3 amended by amending Subsections (b), (d), and (f) and adding
4 Subsection (d-1) to read as follows:

5 (b) A person that sells [~~may not sell~~] or distributes
6 consumable hemp products [~~containing cannabidiol at retail~~] in this
7 state, other than products generally recognized as safe by the
8 United States Food and Drug Administration, shall register with the
9 department [~~unless the person registers with the department each~~
10 ~~location owned, operated, or controlled by the person at which~~
11 ~~those products are sold. A person is not required to register a~~
12 ~~location associated with an employee or independent contractor~~
13 ~~described by Subsection (d)].~~

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

16 (1) an employee of a registrant; or

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

19 (d-1) unless such employee or independent contractor works
20 for a person located outside of the state who is not a registrant
21 and sells or distributes products covered by Subsection (b) in this
22 state.

23 (f) The registration shall [~~department by rule may adopt a~~
24 ~~registration fee schedule that establishes reasonable fee amounts~~
25 ~~for the registration of]:~~

26 (1) identify the responsible party to direct
27 correspondence [~~a single location at which consumable hemp products~~

1 ~~[containing cannabidiol are sold]; and~~

2 (2) be subject to a nominally reasonable fee ~~[multiple~~
3 ~~locations at which consumable hemp products [containing~~
4 ~~cannabidiol] are sold under a single registration].~~

5 SECTION 8. Section 443.204, Health and Safety Code, is
6 amended by adding Subsection (b) to read as follows:

7 Sec. 443.204. RULES RELATED TO SALE OF CONSUMABLE HEMP
8 PRODUCTS. (a) Rules adopted by the executive commissioner
9 regulating the sale of consumable hemp products must, to the extent
10 allowable by law, reflect the following principles:

11 (1) hemp-derived cannabinoids, including cannabidiol,
12 are not considered controlled substances or adulterants;

13 (2) products containing one or more hemp-derived
14 cannabinoids, such as cannabidiol, intended for ingestion are
15 considered foods, not controlled substances or adulterated
16 products;

17 (3) consumable hemp products must be packaged and
18 labeled in the manner provided by Section 443.205; and

19 (4) the processing or manufacturing of a consumable
20 hemp product for smoking is prohibited.

21 (b) Not later than the 90th day after a change to this
22 chapter takes effect, the department shall adopt rules to resolve
23 any conflicts arising from the change. Until such rules are
24 adopted, the department shall enforce the provisions of this
25 chapter to the fullest extent possible without exceeding its
26 authority or conflicting with federal law or other controlling
27 legal requirements.

1 SECTION 9. Section 443.205, Health and Safety Code, is
2 amended to read as follows:

3 SEC. 443.205 CONSUMER SAFETY [~~PACKAGING AND LABELING~~]
4 REQUIREMENTS. (a) before a finished [~~Before a~~] consumable hemp
5 product, including hemp plant material, may be distributed or sold,
6 it [~~that contains or is marketed as containing more than trace~~
7 ~~amounts of cannabinoids may be distributed or sold, the product~~]
8 must be labeled in the manner provided under this section and with
9 the following information:

10 (1) a statement of identify or product name. labeled
11 in the manner provided by this subchapter, including [~~section with~~]
12 ~~the following information.~~

13 (2) [(1)] batch or lot identification number;

14 (3) [(2)] Net contents [~~batch date~~];

15 (4) [(3)] ingredients contained in the product,
16 including hemp-derived cannabinoids [~~product name~~];

17 (5) [(4)] major food allergens as identified by the
18 U.S. Food, Drug, and Cosmetic Act [~~a uniform resource locator (URL)~~]
19 ~~that provides or links to a certificate of analysis for the product~~
20 ~~or each hemp-derived ingredient of the product];~~

21 (6) [(5)] the name of the product's manufacturer; [~~and~~]

22 (7) [(6)] a certification that the delta-9
23 tetrahydrocannabinol concentration of the product or each
24 hemp-derived ingredient of the product is not more than 0.3
25 percent; and

26 (8) contact information of the manufacturer or
27 licensed party.

1 (9) Packaged in a container that is:

2 (a) tamper evident; and

3 (b) child resistant

4 (b) The label required by Subsection (a) may be in the form
5 of:

6 (1) a uniform resource locator (URL) [~~for the~~
7 ~~manufacturer's Internet website~~] that provides or links to a
8 certificate of analysis for the product [~~the information required~~
9 ~~by that subsection~~]; and

10 (2) a QR code or other bar code that may be scanned and
11 that leads to the information required by that subsection.

12 (c) The label required by Subsection (a) must appear on each
13 unit of the product intended for individual retail sale. If the
14 unit includes inner and outer packaging, the label may appear on any
15 of that packaging.

16 (d) This section does not apply to sterilized seeds
17 incapable of beginning germination.

18 (e) Before a consumable hemp product may be sold to a
19 consumer, the product must be either prepackaged or placed at the
20 time of sale in packaging or a container that is tamper-evident and
21 child resistant. if the product contains multiple servings or
22 consists of multiple products purchased in one transaction, the
23 package or container must be resealable in a manner that allows the
24 child-resistant mechanism to remain intact.

25 SECTION 10. Subchapter E, Chapter 443, Health and Safety
26 Code, is amended by adding Sections 443.2055, 443.2056, 443.208,
27 443.209, and 443.210 to read as follows:

1 Sec. 443.2055. CONSUMABLE HEMP PRODUCT AND PACKAGING
2 ATTRACTIVE TO MINORS. (a) Edible consumable hemp products that
3 contain or are marketed as containing hemp-derived cannabinoids may
4 not be in the shape of a human, animal, fruit, or toy or in another
5 shape known to be marketed to minors.

6 (b) Packaging of a consumable hemp product may not include:

7 (1) cartoons, being any drawing or depiction of an
8 object, person, animal, creature or any similar caricature that
9 uses comically-exaggerated features; and

10 (2) attributes human characteristics to animals,
11 plants, toys or other objects; or

12 (3) attributes unnatural or extra-human abilities,
13 such as imperviousness to pain or injury, X-ray vision, tunneling
14 at very high speeds, or human transformation (i.e.) superheroes; or

15 (4) images of children.

16 Sec. 443.2056. MISLEADING PACKAGING PROHIBITED. (a) The
17 packaging and labeling of consumable hemp products that contain or
18 are marketed as containing hemp-derived cannabinoids shall not:

19 (1) depict any statement, artwork, or design that
20 falsely suggests the product does not contain hemp-derived
21 cannabinoids;

22 (2) closely resemble a copyrighted, trademarked, or
23 widely recognized non-hemp product in a way that could cause
24 confusion.

25 Sec. 443.208. SALE OF CONSUMABLE HEMP PRODUCTS TO PERSONS
26 YOUNGER THAN 21 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED. (a)

27 A person commits an offense if the person, with criminal

1 negligence, sells a consumable hemp product that contains or is
2 marketed as containing hemp-derived cannabinoids, to an individual
3 under 21 years of age.

4 (b) An employee of an establishment that sells a consumable
5 hemp product in violation of Subsection (a), is individually liable
6 and may be prosecuted for the offense, regardless of whether the
7 owner or operator of the establishment is also held liable. This
8 section does not preclude prosecution of the owner or operator of
9 the establishment if the violation occurred with their knowledge or
10 due to their failure to exercise reasonable supervision and control
11 over employees.

12 (c) An offense under this section is a Class C misdemeanor.

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

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

24 (f) It is an exception to the application of Subsection (a)
25 that the person to whom the consumable hemp product was sold is at
26 least 18 years of age and presented at the time of purchase a valid
27 military identification card of the United States military forces

1 or the state military forces.

2 (g) A person who owns, manages, or operates an Internet
3 website that contains an e-commerce platform on which consumable
4 hemp products, including hemp plant material, that contain or are
5 marketed as containing hemp-derived cannabinoids are sold at retail
6 or offered for retail sale must:

7 (1) require a consumer accessing the e-commerce
8 platform to state affirmatively that the person is at least 21 years
9 of age; and

10 (2) verify a consumer's age prior to completing a
11 purchase on the e-commerce platform by:

12 (A) using a reliable online age verification
13 service; or

14 (B) obtaining and examining a copy of a valid
15 government-issued identification.

16 Sec. 443.209. SALE OF CERTAIN CONSUMABLE HEMP PRODUCTS TO
17 PERSONS YOUNGER THAN 21 YEARS OF AGE. (a) The department by rule
18 shall adopt a list of hemp-derived cannabinoids that are exempt
19 from the requirements of Sections 443.205(a)(9), 443.205(e),
20 443.2055, and 443.208.

21 (b) The list adopted under Subsection (a):

22 (1) must include cannabidiol and cannabigerol; and

23 (2) may include cannabinoid quantity thresholds.

24 (c) Notwithstanding Subsection (a), Sections
25 443.205(a)(9), 443.2055, and 443.208 apply to any consumable hemp
26 product that contains:

27 (1) a hemp-derived cannabinoid not included on the

1 list adopted under Subsection (a); or
2 (2) a quantity of a hemp-derived cannabinoid that
3 exceeds any applicable threshold established under Subsection
4 (b)(2).

5 Sec. 443.210. APPLICABILITY OF PENALTIES TO CERTAIN
6 RETAILERS. Notwithstanding another provision of this subchapter, a
7 retailer of consumable hemp products is not liable for a penalty
8 under this subchapter if the retailer proves by a preponderance of
9 the evidence that the violation was unintentional and due to the
10 retailer's good faith reliance on a representation made by a
11 manufacturer, processor, or distributor of consumable hemp
12 products.

13 SECTION 11. Subchapter C, Chapter 122, Agriculture Code,
14 Section 122.102 is amended by adding subsection(c) to read as
15 follows:

16 (c) Except as provided by subdivision (d) and
17 notwithstanding any other law, The department may not issue a
18 license under this subchapter to produce hemp on real property
19 owned by any of the following:

20 (1) a governmental entity of China, Iran, North Korea,
21 or Russia;

22 (2) a company or other entity that is:

23 (A) headquartered in China, Iran, North Korea, or
24 Russia;

25 (B) directly or indirectly under the control of
26 the government of China, Iran, North Korea, or Russia; or

27 (C) owned by or under the control of one or more

1 individuals who are citizens of China, Iran, North Korea, or
2 Russia;

3 (3) a company or other entity that is owned by or under
4 the control of a company or entity described by Subdivision (2); or

5 (4) an individual who is a citizen of China, Iran,
6 North Korea, or Russia.

7 (d) This subsection does not apply to an individual who is a
8 citizen or lawful permanent resident of the United States,
9 including an individual who is a citizen of a foreign country.

10 SECTION 12. Notwithstanding any other law, a retailer may
11 possess, transport, or sell a consumable hemp product that becomes
12 part of the retailer's inventory before rules required to implement
13 the changes in law made by this Act become effective unless the
14 product:

15 (1) is unsafe for consumption based on the presence or
16 quantity of heavy metals, pesticides, harmful microorganisms, or
17 residual solvents; or

18 (2) has a delta-9 tetrahydrocannabinol concentration
19 that exceeds 0.3% delta-9 tetrahydrocannabinol by dry weight.

20 SECTION 13. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2025