

By: King of Uvalde

H.B. No. 1325

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the production and regulation of hemp and products made
3 from hemp; requiring authorization to produce hemp; authorizing
4 penalties; authorizing fees.

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

6 SECTION 1. This Act may be cited as the Hemp Farming Act.

7 SECTION 2. (a) It is the policy of this state that hemp is a
8 viable agricultural crop and an agricultural commodity in this
9 state.

10 (b) It is the purpose of this Act to:

11 (1) promote cultivating and processing hemp and
12 develop new commercial markets for farmers and businesses through
13 the sale of hemp products;

14 (2) promote the expansion of this state's hemp
15 industry to the maximum extent permitted by law allowing farmers
16 and businesses to cultivate, handle, and process hemp and sell hemp
17 products for commercial purposes;

18 (3) encourage and empower research into hemp
19 production and hemp products at institutions of higher education
20 and in the private sector; and

21 (4) move this state and its citizens to the forefront
22 of the hemp industry.

23 SECTION 3. Section 12.020(c), Agriculture Code, is amended
24 to read as follows:

1 (c) The provisions of law subject to this section and the
2 applicable penalty amounts are as follows:

3	Provision	Amount of Penalty
4		
5		
6	Chapters 13, 14A, 17, 18, 19, 41,	
7	46, 61, 72, 73, 74, 76, 94, 95, 101,	
8	102, 103, <u>113</u> , 125, 132,	
9	and 134	not more than \$5,000
10		
11		
12		
13	Subchapters A, B, and C, Chapter 71	not more than \$5,000
14	Chapter 14	not more than \$10,000
15	Chapter 1951, Occupations Code	not more than \$5,000
16	Chapter 153, Natural Resources	
17	Code	not more than \$5,000
18	Section 91.009	not more than \$5,000.

19 SECTION 4. The heading to Subtitle E, Title 5, Agriculture
20 Code, is amended to read as follows:

21 SUBTITLE E. PRODUCTION, PROCESSING, AND SALE OF FIBER PRODUCTS

22 SECTION 5. Subtitle E, Title 5, Agriculture Code, is
23 amended by adding Chapters 112 and 113 to read as follows:

24 CHAPTER 112. STATE HEMP PRODUCTION PLAN

25 Sec. 112.001. DEFINITION. In this chapter, "hemp" means
26 the plant Cannabis sativa L. and any part of that plant, including
27 the seeds of the plant and all derivatives, extracts, cannabinoids,
28 isomers, acids, salts, and salts of isomers, whether growing or
29 not, with a delta-9 tetrahydrocannabinol concentration of not more
30 than 0.3 percent on a dry weight basis.

31 Sec. 112.002. LEGISLATIVE INTENT. It is the intent of the
32 legislature that this state have primary regulatory authority over
33 the production of hemp in this state.

34 Sec. 112.003. DEPARTMENT RULES. (a) The department, after
35 consulting with the governor and attorney general, shall adopt

1 rules consistent with Chapter 113 providing:

2 (1) a practice to maintain relevant information
3 regarding land on which hemp is produced in this state, including a
4 legal description of the land, for a period of at least three
5 calendar years;

6 (2) a procedure for testing, using
7 post-decarboxylation or another similarly reliable method, the
8 delta-9 tetrahydrocannabinol concentration of hemp produced in
9 this state;

10 (3) a procedure for the effective disposal of plants,
11 whether growing or not, that are produced in violation of Subtitle
12 G, Agricultural Marketing Act of 1946 (7 U.S.C. Chapter 38,
13 Subchapter VII), and products derived from those plants;

14 (4) a procedure to comply with the enforcement
15 procedures described by Section 297B(e), Agricultural Marketing
16 Act of 1946 (7 U.S.C. Section 1639p(e));

17 (5) a procedure for conducting annual inspections of,
18 at a minimum, a random sample of hemp producers to verify that hemp
19 is not produced in violation of Subtitle G, Agricultural Marketing
20 Act of 1946 (7 U.S.C. Chapter 38, Subchapter VII);

21 (6) a procedure for submitting the information
22 described in Section 297C(d)(2), Agricultural Marketing Act of 1946
23 (7 U.S.C. Section 1639q(d)(2)), as applicable, to the secretary of
24 the United States Department of Agriculture not later than the 30th
25 day after the date the information is received; and

26 (7) standards for certifying that this state has the
27 resources and personnel to carry out the practices and procedures

1 described by Subdivisions (1) through (6).

2 (b) The department shall attempt to adopt rules under
3 Subsection (a) that will, in substance, meet the requirements for
4 approval as a state plan under Section 297B, Agricultural Marketing
5 Act of 1946 (7 U.S.C. Section 1639p).

6 Sec. 112.004. SUBMISSION OF STATE PLAN. (a) The
7 department, after consulting with the governor and attorney
8 general, shall submit to the secretary of the United States
9 Department of Agriculture a state plan for monitoring and
10 regulating the production of hemp in this state as provided by
11 Section 297B, Agricultural Marketing Act of 1946 (7 U.S.C. Section
12 1639p).

13 (b) The plan shall include the rules adopted under Section
14 112.003 and any other required information.

15 (c) If a plan submitted by the department is disapproved by
16 the secretary of the United States Department of Agriculture, the
17 department, after consulting with the governor and attorney
18 general, shall amend the rules under Section 112.003 as needed to
19 obtain approval and submit an amended plan.

20 (d) The department shall, as necessary, seek technical
21 assistance from the secretary of the United States Department of
22 Agriculture in adopting rules under Section 112.003 and otherwise
23 developing the plan.

24 CHAPTER 113. PRODUCTION OF HEMP

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 113.001. DEFINITIONS. In this chapter:

27 (1) "Commercial sale" means the sale of a product in

1 the stream of commerce at retail, at wholesale, or on the Internet.

2 (2) "Cultivate" means to plant, water, grow, or
3 harvest a plant or crop.

4 (3) "Federally defined THC level for hemp" means a
5 delta-9 tetrahydrocannabinol concentration of not more than 0.3
6 percent:

7 (A) on a dry weight basis for hemp; or

8 (B) in a hemp product.

9 (4) "Handle" means to possess or store a hemp plant:

10 (A) on premises owned, operated, or controlled by
11 a hemp producer for any period of time; or

12 (B) in a vehicle for any period of time other than
13 during the actual transport of the plant from a premises owned,
14 operated, or controlled by a hemp producer to a premises owned,
15 operated, or controlled by another hemp producer.

16 (5) "Hemp" has the meaning assigned by Section
17 112.001.

18 (6) "Hemp producer" means a person authorized by the
19 department to cultivate, handle, or process hemp in this state.

20 (7) "Hemp product" means a finished product with a
21 delta-9 tetrahydrocannabinol concentration of not more than 0.3
22 percent that is derived from or made by processing a hemp plant or
23 plant part and prepared in a form available for commercial sale.

24 The term includes cosmetics, personal care products, food intended
25 for human or animal consumption, cloth, cordage, fiber, fuel,
26 paint, paper, particleboard, plastics, and any product containing
27 one or more hemp-derived cannabinoids such as cannabidiol.

1 (8) "Institution of higher education" has the meaning
2 assigned by Section 61.003, Education Code.

3 (9) "Process" means to convert hemp into a marketable
4 form.

5 Sec. 113.002. DEPARTMENT RULES AND PROCEDURES. The
6 department may adopt rules and administrative procedures necessary
7 to implement this chapter.

8 Sec. 113.003. STATE HEMP PROGRAM ACCOUNT. (a) The state
9 hemp program account is an account in the general revenue fund
10 administered by the department.

11 (b) The account consists of:

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

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

16 (3) fees deposited to the account under Section
17 113.053;

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

20 (5) penalties collected under this chapter; and

21 (6) funds from any other source.

22 (c) The department may accept appropriations and gifts,
23 grants, or donations from any source to administer and enforce this
24 chapter. Money received under this subsection shall be deposited
25 in the account.

26 (d) Money in the account may be appropriated only for the
27 administration and enforcement of this chapter.

1 Sec. 113.004. APPLICABILITY OF OTHER LAW. This chapter
2 does not authorize a person to violate federal or other state law.

3 SUBCHAPTER B. STATE HEMP PROGRAM

4 Sec. 113.051. APPLICABILITY OF SUBCHAPTER TO HEMP PRODUCTS.
5 This subchapter does not apply to the possession, transportation,
6 or sale of hemp products or extracts, including those containing
7 one or more hemp-derived cannabinoids, including cannabidiol.

8 Sec. 113.052. PROGRAM RULES. (a) The department shall
9 adopt rules to establish a state hemp program that:

10 (1) promotes the cultivating and processing of hemp
11 and the commercial sale of hemp products; and

12 (2) regulates hemp production in this state.

13 (b) In adopting rules under Subsection (a), the department
14 shall consult with:

15 (1) relevant public agencies; and

16 (2) private, nonprofit associations in the hemp
17 industry that promote standards, best practices, and
18 self-regulation in the production of hemp.

19 (c) Rules adopted under Subsection (a) must:

20 (1) establish requirements by which the department
21 authorizes an individual or business entity to participate in the
22 state hemp program as a hemp producer;

23 (2) prescribe the manner in which an institution of
24 higher education may participate in or be affiliated with the
25 program;

26 (3) prescribe sampling and testing procedures to
27 ensure that hemp plants cultivated, handled, or processed in this

1 state, and hemp products processed in this state, do not exceed the
2 federally defined THC level for hemp;

3 (4) provide due process consistent with Chapter 2001,
4 Government Code, including an appeals process, to protect hemp
5 producers from the consequences of imperfect test results; and

6 (5) prescribe enforcement procedures that are
7 consistent with Section 297B(e), Agricultural Marketing Act of 1946
8 (7 U.S.C. Section 1639p(e)).

9 Sec. 113.053. FEES. (a) The department by rule shall set
10 and collect fees in amounts that are reasonable and necessary to
11 cover the costs of administering and enforcing the state hemp
12 program.

13 (b) Fees prescribed by the department under this section are
14 not refundable.

15 (c) Fees collected under this section must be deposited in
16 the state hemp program account under Section 113.003.

17 Sec. 113.054. DEPARTMENT AUTHORIZATION REQUIRED. (a)
18 Except as provided by Subchapter C, a person or the person's agent
19 may not cultivate, handle, or process hemp in this state or
20 transport hemp outside of this state unless the person is
21 authorized by the department under this section to participate in
22 the state hemp program as a hemp producer.

23 (b) A person seeking to participate in the state hemp
24 program as a hemp producer must apply to the department on a form
25 and in the manner prescribed by the department. The application
26 must be accompanied by:

27 (1) a legal description and the global positioning

1 system coordinates for each location where the person intends to
2 cultivate or process hemp;

3 (2) written consent allowing the department, the
4 Department of Public Safety, and any other state or local law
5 enforcement agency to enter onto all premises where hemp is
6 cultivated, processed, or stored to conduct a physical inspection
7 or to ensure compliance with this chapter and rules adopted under
8 this subchapter;

9 (3) any fees required by the department; and

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

11 (c) If the department determines that a person who submits
12 an application under this section meets the state hemp program
13 participation requirements prescribed by department rule, the
14 department shall authorize the person to participate in the program
15 as a hemp producer in the manner provided by department rule.

16 Sec. 113.055. LIMITATION ON PROGRAM PARTICIPATION. (a) A
17 person who is or has been convicted of a felony relating to a
18 controlled substance under state or federal law may not participate
19 in the state hemp program established under this subchapter or
20 produce hemp in this state under any other law for a period of at
21 least 10 years after the date of the person's conviction.

22 (b) A person who materially falsifies any information
23 contained in an application submitted to the department under
24 Section 113.054 may not participate in the state hemp program.

25 Sec. 113.056. ENFORCEMENT. (a) If the department
26 determines that a hemp producer has negligently violated this
27 subchapter or a rule adopted under this subchapter, the department

1 shall enforce the violation in the manner provided by Section
2 297B(e), Agricultural Marketing Act of 1946 (7 U.S.C. Section
3 1639p(e)). A hemp producer is not subject to a civil or criminal
4 penalty under this subsection.

5 (b) If the department determines that a hemp producer has
6 violated this subchapter or a rule adopted under this subchapter
7 with a culpable mental state greater than negligence, Subsection
8 (a) does not apply and the department shall report the hemp producer
9 immediately to:

10 (1) the United States attorney general; and

11 (2) the attorney general of this state, who may:

12 (A) on behalf of the department, investigate the
13 violation and institute proceedings for injunctive or other
14 appropriate relief; or

15 (B) report the matter to an appropriate law
16 enforcement agency.

17 SUBCHAPTER C. HEMP PRODUCTS

18 Sec. 113.101. PROCESSING OR MANUFACTURING HEMP PRODUCTS. A
19 state agency may not prohibit a person who processes or
20 manufactures a product regulated by the agency from applying for or
21 obtaining a permit or other authorization to process or manufacture
22 the product solely on the basis that the person intends to process
23 or manufacture the product with hemp.

24 Sec. 113.102. HEMP-DERIVED ADDITIVES. Notwithstanding any
25 other law, derivatives of hemp, including hemp-derived
26 cannabidiol, may be added to cosmetics, personal care products, and
27 products intended for human or animal consumption, and such an

1 addition is not considered an adulteration of those products.

2 Sec. 113.103. POSSESSION, TRANSPORTATION, AND SALE OF HEMP
3 PRODUCTS. (a) Notwithstanding any other law, a person may possess,
4 transport, sell, and purchase legally produced hemp products in
5 this state.

6 (b) The department by rule must provide to a retailer of
7 hemp products fair notice of a potential violation concerning hemp
8 products sold by the retailer and an opportunity to cure a violation
9 made unintentionally or negligently.

10 Sec. 113.104. RULES RELATED TO SALE OF HEMP PRODUCTS. The
11 department, in consultation with the Department of State Health
12 Services, may adopt rules to regulate the sale of hemp products that
13 reflect the following principles:

14 (1) hemp-derived cannabinoids, including cannabidiol,
15 are not considered controlled substances or adulterants; and

16 (2) products containing one or more hemp-derived
17 cannabinoids, such as cannabidiol, intended for ingestion are to be
18 considered foods, not controlled substances or adulterated
19 products.

20 Sec. 113.105. RETAIL SALE OF OUT-OF-STATE HEMP PRODUCTS.
21 Retail sales of hemp products processed outside of this state may be
22 conducted in this state when the products and the hemp used in the
23 products were processed and cultivated legally in another state or
24 jurisdiction that has the same or substantially similar
25 requirements for processing hemp products or cultivating hemp as
26 provided by this chapter.

27 Sec. 113.106. TRANSPORTATION AND EXPORTATION OF HEMP

1 PRODUCTS OUT OF STATE. Hemp products may be legally transported
2 across state lines and exported to foreign countries in a manner
3 that is consistent with federal law and the laws of respective
4 foreign countries.

5 SUBCHAPTER D. ENFORCEMENT; PENALTIES

6 Sec. 113.151. PENALTY SCHEDULE. (a) The department by rule
7 shall adopt a schedule of sanctions and penalties for violations of
8 this chapter and rules adopted under this chapter that does not
9 conflict with Section 297B(e), Agricultural Marketing Act of 1946
10 (7 U.S.C. Section 1639p(e)).

11 (b) A penalty collected under this chapter must be deposited
12 in the state hemp program account under Section 113.003.

13 Sec. 113.152. ADMINISTRATIVE PENALTY. The department may
14 impose an administrative penalty or other administrative sanction
15 for a violation of this chapter or a rule or order adopted under
16 this chapter, including a penalty or sanction under Section 12.020
17 or 12.0201.

18 SECTION 6. Sections 481.002(5) and (26), Health and Safety
19 Code, are amended to read as follows:

20 (5) "Controlled substance" means a substance,
21 including a drug, an adulterant, and a dilutant, listed in
22 Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The
23 term includes the aggregate weight of any mixture, solution, or
24 other substance containing a controlled substance. The term does
25 not include hemp, as defined by Section 112.001, Agriculture Code,
26 or any tetrahydrocannabinols or other substances in hemp.

27 (26) "Marihuana" means the plant Cannabis sativa L.,

1 whether growing or not, the seeds of that plant, and every compound,
2 manufacture, salt, derivative, mixture, or preparation of that
3 plant or its seeds. The term does not include:

4 (A) the resin extracted from a part of the plant
5 or a compound, manufacture, salt, derivative, mixture, or
6 preparation of the resin;

7 (B) the mature stalks of the plant or fiber
8 produced from the stalks;

9 (C) oil or cake made from the seeds of the plant;

10 (D) a compound, manufacture, salt, derivative,
11 mixture, or preparation of the mature stalks, fiber, oil, or cake;
12 [~~or~~]

13 (E) the sterilized seeds of the plant that are
14 incapable of beginning germination; or

15 (F) hemp or a hemp product, as those terms are
16 defined by Sections 112.001 and 113.001, Agriculture Code.

17 SECTION 7. (a) Not later than the 90th day after the
18 effective date of this Act, the Department of Agriculture shall
19 adopt rules under Section 112.003, Agriculture Code, as added by
20 this Act, and submit for approval a state plan to the secretary of
21 the United States Department of Agriculture as provided by Section
22 112.004, Agriculture Code, as added by this Act.

23 (b) The Department of Agriculture shall submit amended
24 state plans as provided by Section 112.004(c), Agriculture Code, as
25 added by this Act, as necessary until the plan is approved.

26 SECTION 8. (a) Not later than January 1, 2020, the
27 Department of Agriculture shall adopt rules and procedures

1 necessary to implement Chapter 113, Agriculture Code, as added by
2 this Act.

3 (b) Not later than the 30th day after the date on which rules
4 and procedures are adopted under Subsection (a) of this section,
5 the Department of Agriculture shall begin authorizing
6 participation in the state hemp program established under Chapter
7 113, Agriculture Code, as added by this Act.

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2019.