December 2, 2019

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

Dear Secretary Perdue:

The Agricultural Improvement Act of 2018 (Farm Bill), which was signed by President Trump in December 2018, includes regulatory framework for Hemp Production (*All references to Section 297 are references to the Farm Bill, Section 10113, Subtitle G—Hemp Production*) in the United States. The farmers and producers of Texas appreciate the support that you have shown to advance hemp production nationally.

As you know, agriculture is a $110 billion industry in Texas, and the state’s farmers and ranchers welcome the economic opportunities possible with industrial hemp. Throughout the past year, the Texas Department of Agriculture (TDA or Department) has maintained an ongoing dialogue with the U.S. Department of Agriculture (USDA) regarding the regulation and production of hemp in Texas. TDA looks forward to working closely with you and your agency on this exciting new opportunity for Texas agriculture.

During the 86th Legislative Session, the Texas Legislature passed House Bill 1325 (HB 1325) to provide the Department with the statutory authority to submit a state plan (as required by Section 297B of the Farm Bill) and administer a hemp program within Texas. This bill (*see attached*) provides Texas farmers with new agricultural opportunities which will enhance economic development throughout the state. HB 1325 divides regulatory responsibility between two state agencies: TDA will regulate and license the growth and distribution of hemp and nonconsumable hemp products, while the Texas Department of State Health Services (DSHS) will regulate consumable hemp products processed and manufactured in Texas.

One key provision of HB 1325, which became effective on June 10, 2019, is that TDA must submit the Texas state plan to USDA no later than 90 days after the effective date of the bill, on or before September 8, 2019. TDA recognized that USDA was not accepting state plans prior to the October 31, 2019, release date of the federal rules and guidelines for hemp production. Nevertheless, in order to comply with HB 1325, TDA submitted Texas’ state plan on August 28, 2019, with the understanding that the agency would submit a revised plan if necessary.
TDA now submits Texas’ revised state plan (see attached), which includes HB 1325 and TDA’s proposed rules for TDA’s Hemp Program. TDA’s proposed rules incorporate the federal rules and guidelines, and expand on key provisions in HB 1325.

(1) Maintain Relevant Information Regarding Land.

The following sections demonstrate the state’s plan “to maintain relevant information regarding land on which hemp is produced in the State ... including a legal description of the land, for a period of not less than 3 calendar years.” See Sec. 297B(a)(2)(A)(i).

See Texas Agriculture Code Chapter 122. Cultivation of Hemp.
Subchapter C. Hemp Grower’s License
See §122.101. License Required; Exceptions.
See §122.103. Application; Issuance.

See §24.03. Records Retention.

See TDA’s Proposed Rules Subchapter C. Licensing
See §24.08. License Application.
See §24.09. Ineligibility for a License.
See §24.11. Criminal Background Check.
See §24.15. License Holders who Transplant.
See §24.16. Facility Addition or Modification.
See §24.17. Lot Permit.
See §24.18. Reporting and Recordkeeping.

(2) Testing Procedures.

The following sections and procedures demonstrate the state’s “procedure[s] for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State ...” See Sec. 297B(a)(2)(A)(ii).

See §122.151. Testing Laboratories.
See §122.152. Registration of Independent Testing Laboratories.
See §122.154. Preharvest Sample Collection.
See §122.156. Shipping Documentation for Testing Samples.
See §122.157. False Laboratory Report; Criminal Offense.


See TDA Testing Procedure.

(3) Disposal of Plants and Products.

The following sections demonstrate the state’s "procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this subtitle, and products derived from those plants." See Sec. 297B(a)(2)(A)(iii)(I)-(II).


See TDA Disposal Procedure.

(4) Enforcement Procedures for Violations of the Hemp Program.

The following sections demonstrate "procedure[s] to comply with the enforcement procedures under subsection (e)..." regarding negligent and other violations by hemp producers in Texas. See 297B(a)(2)(A)(iv).

See Texas Agriculture Code Chapter 122. Cultivation of Hemp.
See §122.055. Shipping Certificate or Cargo Manifest.
See §122.102. License Ineligibility.
See §122.105. Revocation.
See §122.157. False Laboratory Report; Criminal Offense.
See §122.359. Civil Penalty.
See §122.360. Criminal Offense.

See Texas Agriculture Code Chapter 122. Cultivation of Hemp.
Subchapter I. Enforcement; Penalties.
See §122.401. Penalty Schedule.
See §122.402. Administrative Penalty.
See §122.403. Negligent Violations by License Holder.
See §122.404. Other Violations by License Holder.

See §24.32. Complaints.
See §24.34. Violations with a Culpable Mental State Greater than Negligence.
See §24.35. License Suspension.
See §24.36. License Revocation.
See §24.37. Penalties.
See §24.38. Appeals.

(5) Annual Inspections of Hemp Producers.

The following sections and procedures demonstrate “a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle[.]” See 297B(a)(2)(A)(v).

See §122.053. Inspections.
See §122.055. Shipping Certificate or Cargo Manifest.
See §122.358. Powers and Duties of Peace Officers.

See TDA’s Proposed Rules Subchapter D. Inspections.
See §24.23. Other Activities.

See TDA Sampling and Collection Procedure.
(6) Information Sharing for Law Enforcement and the Secretary of Agriculture.

The following sections include “a procedure for submitting the information described in section 297C(d)(2), as applicable, to the Secretary not more than 30 days after the date on which the information is received,” which includes the hemp producers contact information, a legal description of the land, and the license status and any changes in that status. See 297B(a)(2)(A)(vi).

See §121.004. Rules.

See §24.02. Information Submitted to the United States Secretary of Agriculture.

See TDA Information Gathering and Sharing Procedure.

(7) State Certification of Resources and Personnel Necessary to Administer the State Hemp Program.


(8) Other Procedures.

The following sections include "other procedures consistent with the 2018 Farm Bill", as stated in section 297B(a)(2)(B), which includes definition of terms, fee schedules, transport manifests, hemp seed, and academic hemp related research.

See §24.01. Definitions.
See §24.04. Information Submitted to the Department Subject to Open Records Act.

See §24.05. Schedule of Licensing and Registration Fees.
See §24.06. Schedule of Testing Fees.
See §24.07. Other Fees.

See §24.40. Transport Manifest for Test Samples.
See §24.41. Transport of Pests Prohibited.
See §24.42. Transplants Originating Outside the State of Texas Prohibited.
See §24.43. Mixed Cargo Prohibited.
See TDA’s Proposed Rules Subchapter I. Seed
See §24.44. Certified or Approved Hemp Seed.
See §24.45. License Required to Sell, Possess, Hold or Purchase Hemp Seed.
See §24.46. Hemp Seed Quality and Labeling Requirements.
See §24.47. Hemp Seed Recordkeeping.
See §24.48. Certification and Approval of Hemp Seed.

See TDA’s Proposed Rules Subchapter J. Agricultural or Academic Hemp Related Research
See §24.49. Hemp Research License.

For your convenience, TDA completed the “USDA Checklist for Approving State and Tribal Hemp Plans” (see attached), and cited the applicable sections of the Texas Agriculture Code and TDA proposed rules that satisfy the federal requirements. Thank you for the leadership you and your staff have shown on this important development for the agricultural industry. As always, please let me know if there is anything I can do to help.

Sincerely,

Sid Miller
Commissioner

Attachments:
Hemp Program Certification
USDA Checklist for Approving State and Tribal Hemp Plans
HB 1325
TDA’s Proposed Rules
TDA Information Gathering and Sharing Procedure
TDA Sampling and Collection Procedure
TDA Testing Procedure
TDA Disposal Procedure

Cc: Honorable Greg Abbott
Honorable Ken Paxton
HEMP PROGRAM CERTIFICATION
Commissioner Sid Miller, Texas Department of Agriculture

December 2, 2019

Pursuant to Section 297B(a)(2)(A)(vii) of the Agricultural Improvement Act of 2018, I certify that the Texas Department of Agriculture has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the Act.

Respectfully,

[Signature]

Sid Miller
Commissioner
<table>
<thead>
<tr>
<th>Farm Bill Criteria and USDA Requirements</th>
<th>Applicable Regulations, Laws or Procedures</th>
<th>TDA Provisions Satisfying Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State or Tribal Government name:</strong> Texas</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Plan to Maintain Relevant Producer and Land Information</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Collect, maintain and provide to USDA contact information for each hemp producer licensed or authorized in the state or territory of the tribal government (whichever applicable)</td>
<td>7 CFR §990.3(a)(1)</td>
<td>TDA Proposed Rule §24.02-03</td>
</tr>
<tr>
<td>• Provide contact information for each hemp producer covered under the plan including name, address, telephone number, and email address (if available). If the producer is a business entity, the information must include the full name of the business, address of the principal business location, full name and title of the key participants, an email address if available, and EIN number of the business entity. This information can be provided via mail, fax, or email.</td>
<td>7 CFR §990.3(a)(1)(i)</td>
<td>TDA Proposed Rule §24.02</td>
</tr>
<tr>
<td>• A legal description collected and forwarded for land where hemp is produced in the state or tribal territory</td>
<td>7 CFR §990.3(a)(1)(ii)</td>
<td>Texas Agriculture Code §122.103 (1)</td>
</tr>
<tr>
<td>• Maintain and report to USDA status of licensed producers (and any changes) and license or authorization numbers of producers</td>
<td>7 CFR §990.3(a)(1)(iii)</td>
<td>TDA Proposed Rule §24.02-03</td>
</tr>
<tr>
<td><strong>Plan for accurate and effective sampling and testing using post decarboxylation or similar reliable methods</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedures for collecting samples from the flower material of plants</td>
<td>7 CFR §990.3(a)(2)(i)</td>
<td>TDA Proposed Rule §24.21(b)</td>
</tr>
<tr>
<td>Procedures to conduct sampling and testing 15 days prior to the harvest date anticipated</td>
<td>7 CFR §990.3(a)(2)(ii)</td>
<td>TDA Proposed Rule §24.21(a).</td>
</tr>
<tr>
<td>Procedures to ensure the method used for sampling represents a homogenous composition of the lot</td>
<td>7 CFR §990.3(a)(2)(ii)</td>
<td>Texas Agriculture Code §122.153 (c)</td>
</tr>
<tr>
<td>Procedure/statements allowance to require the producer or an authorized representative of the producer to be present at the growing site during sample collection</td>
<td>7 CFR §990.3(a)(2)(iii)</td>
<td>TDA Proposed Rule §24.20(C)</td>
</tr>
<tr>
<td>Procedures to allow for representatives of the sampling agency to have complete and unrestricted access during business hours to all hemp and other cannabis plants and all land, buildings, etc. used for cultivation and/or handling</td>
<td>7 CFR §990.3(a)(2)(iv)</td>
<td>Texas Agriculture Code §122.053 (d) TDA Proposed Rule §24.20(a)</td>
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</tr>
<tr>
<td>Procedures to ensure that a producer does not harvest any cannabis prior to samples being taken</td>
<td>7 CFR §990.3(a)(2)(v)</td>
<td>Texas Agriculture Code §122.201 (b) TDA Proposed Rule §24.23(a)</td>
</tr>
<tr>
<td>Procedures to require testing for delta-9 THC concentration with detection. The procedures must require accurate identification of the acceptable hemp THC level. Testing methods must include but are not limited to:</td>
<td>7 CFR §990.3(a)(3)</td>
<td>Texas Agriculture Code §122.153, TDA Proposed Rule §24.26(b) TDA Proposed Rule §24.26(c) Texas Agriculture Code § 122.153, TDA Proposed Rule §24.26(c) Texas Agriculture Code § 122.051, TDA Proposed Rule §24.28(b)</td>
</tr>
<tr>
<td>☒ Post decarboxylation or other similarly reliable method</td>
<td></td>
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<tr>
<td>&quot;If &quot;similarly reliable,&quot; verify with AMS S&amp;T</td>
<td></td>
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</tr>
<tr>
<td>☒ Consideration of potential conversion of delta-9 THCA into THC and test result measure total available THC (THC + THCA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☒ Gas or liquid chromatography with detection</td>
<td></td>
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<tr>
<td>☒ Procedures to determine total THC concentration on a dry weight basis</td>
<td></td>
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</tr>
<tr>
<td>Procedures that prohibit handling, processing, or entering the stream of commerce of any hemp grown in a lot where the acceptable hemp THC level is noncompliant</td>
<td>7 CFR §990.3(a)(3)(i)</td>
<td>Texas Health &amp; Safety Code §443.152 TDA Proposed Rule §24.23(u), TDA Proposed Rule §24.31</td>
</tr>
<tr>
<td>Procedures to ensure the hemp plant material from one lot not be commingled with hemp plant material from other lots</td>
<td>7 CFR §990.3(a)(3)(ii)</td>
<td>Texas Agriculture Code §122.201 (c) TDA Proposed Rule §24.23(c)</td>
</tr>
<tr>
<td>Procedures to require hemp testing laboratories to adhere to standards of performance for detecting THC concentration, including Measurement of Uncertainty (MU); must use DEA registered labs.</td>
<td>7 CFR §950.25</td>
<td>TDA Proposed Rules §24.25, §24.26 and §24.27 TDA Testing Procedure</td>
</tr>
</tbody>
</table>

**Plan for Disposal Procedures**

- Procedures for plants that do not meet the requirements of this part
- Procedures to notify USDA of non-compliant plants and disposal of those plants from the lot where representative samples were taken. Test results must be included.

| 7 CFR §990.3(a)(4) | Texas Agriculture Code §122.202 (b) (1) TDA Proposed Rule §24.30-31 TDA Proposed Rule §24.02 TDA Information Sharing Procedure |
**USDA Checklist for Approving State and Tribal Governments Hemp Plans**

<table>
<thead>
<tr>
<th>Plan for Inspection Procedures</th>
<th>7 CFR §990.3(a)(6)</th>
<th>Texas Agriculture Code §122.053</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>TDA Proposed Rule §24.20</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Plan for Collection of Information</th>
<th>7 CFR §990.3(a)(7)</th>
<th>HB 1325 Section 10</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>TDA Proposed Rule §24.02</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TDA Information and Sharing Procedure</td>
</tr>
</tbody>
</table>

Procedure for submitting the information described in 990.70 to the Secretary not more than 30 days after the date on which the information is received.

Procedure for producers licensed under state and tribal government plans to share information with USDA, Agricultural Marketing Service (AMS), or Farm Service Agency (FSA) including:

☑ Hemp crop acreage
☑ Reporting total acreage of hemp planted, harvested, and disposed
☑ License or authorization number
☑ Street address
☑ Geospatial location(s) of each lot or greenhouse where hemp will be produced
☑ Acreage of greenhouse or indoor square footage dedicated to the production of hemp

<table>
<thead>
<tr>
<th>Plan to Comply with Enforcement Procedures</th>
<th>7 CFR §990.6(b)</th>
<th>TDA Proposed Rule §24.33(b)&amp;(d)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Texas Agriculture Code § 122.403 (d)</td>
<td></td>
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<tr>
<td></td>
<td>TDA Proposed Rule §24.33(d)</td>
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<td></td>
<td>TDA Proposed Rule §24.33(d)</td>
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<tr>
<td></td>
<td>TDA Proposed Rule §24.33(e)</td>
<td></td>
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<tr>
<td></td>
<td>TDA Proposed Rule §24.33(g)</td>
<td></td>
</tr>
</tbody>
</table>

- Provides for corrective action plan for negligent violations:
  1. Failure to provide legal description of land
  2. Failure to obtain a license
  3. Produces cannabis with THC exceeding the acceptable hemp THC level

- Procedures to provide for the correction of negligent violations:
  1. A reasonable date to correct the violation
  2. Reporting requirements for 2 years from date of the negligent violation
  3. Violations are not subject to federal, state, tribal, or local government criminal enforcement action
  4. Provides that a negligent violation 3 times within a 5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation
# USDA Checklist for Approving State and Tribal Governments Hemp Plans

<table>
<thead>
<tr>
<th>Procedures for producer violations made with a culpable mental state greater than negligence:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Producer shall be reported to the U.S. Attorney General and the chief law enforcement officer of the state or tribal government</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Procedures for addressing felonies:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Provides for a 10-year ineligibility restriction for persons with a State or Felony conviction relating to a controlled substance</td>
</tr>
<tr>
<td>- Provides for controlled substance felony conviction exception for participants in state hemp pilot program authorized under the 2014 Agricultural Act after December 2018</td>
</tr>
<tr>
<td>- Procedures for business entities to determine which participants are considered to be “key,” or have executive managerial control</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7 CFR §990.6(d)(e)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Agriculture Code § 122.404</td>
</tr>
<tr>
<td>TDA Proposed Rule §24.34</td>
</tr>
<tr>
<td>TDA Proposed Rules §24.08(d) and §24.09</td>
</tr>
<tr>
<td>Texas Agriculture Code § 122.105</td>
</tr>
<tr>
<td>TDA Proposed Rules §24.08(d) and §24.09</td>
</tr>
<tr>
<td>TDA Proposed Rules §24.08(e)(2) and §24.01(41)</td>
</tr>
</tbody>
</table>

| Procedures stating that any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program |
| 7 CFR §990.6(f) |
| Texas Health and Safety Code §443.102 |
| TDA Proposed Rules §24.09(d) and §24.10 |

| Certification that the state or tribal government (whichever applicable) has resources and personnel to carry out required Farm Bill practices and procedures |
| 7 CFR §990.3(a)(8) |
| Document included with the plan called "Hemp Program Certification by Commissioner Sid Miller, Texas Department of Agriculture" dated December 2, 2019. |

| Plan may include other practices or procedures as long as consistent with this part and the Act. Plan may include requirements more stringent than this part or the Act. |
| 7 CFR §990.3(a)(9)(b)(1) and (2) |
| TDA Proposed Rules §24.01, §24.04-07 and §24.39-50 |
H.B. No. 1325

AN ACT

relating to the production and regulation of hemp; requiring
occupational licenses; authorizing fees; creating criminal
offenses; providing civil and administrative penalties.

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

SECTION 1. Section 12.020(c), Agriculture Code, is amended
to read as follows:

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

<table>
<thead>
<tr>
<th>Provision</th>
<th>Amount of Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapters 13, 14A, 17, 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, 122, 125, 132, 134</td>
<td>not more than $5,000</td>
</tr>
</tbody>
</table>

SECTION 2. Title 5, Agriculture Code, is amended by adding
Subtitle F to read as follows:

SUBTITLE F. HEMP

CHAPTER 121. STATE HEMP PRODUCTION PLAN

Sec. 121.001. DEFINITION. In this chapter, "hemp" means
the plant Cannabis sativa L. and any part of that plant, including
the seeds of the plant and all derivatives, extracts, cannabinoids,
isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Sec. 121.002. LEGISLATIVE INTENT. It is the intent of the legislature that this state have primary regulatory authority over the production of hemp in this state.

Sec. 121.003. STATE PLAN. (a) The department, after consulting with the governor and attorney general, shall develop a state plan to monitor and regulate the production of hemp in this state. The plan must comply with:

(1) 7 U.S.C. Section 1639p;
(2) Chapter 122; and
(3) Chapter 443, Health and Safety Code.

(b) The department shall submit the plan developed under Subsection (a) to the secretary of the United States Department of Agriculture as this state's plan for monitoring and regulating the production of hemp as provided by 7 U.S.C. Section 1639p.

(c) If a plan submitted under Subsection (b) is disapproved by the secretary of the United States Department of Agriculture, the department, after consulting with the governor and attorney general, shall amend the plan as needed to obtain approval and submit an amended plan.

(d) The department shall, as necessary, seek technical assistance from the secretary of the United States Department of Agriculture and other state agencies in developing the plan under this section.

Sec. 121.004. RULES. The department may adopt any rules
necessary to implement and administer the state plan under Section 121.003.

CHAPTER 122. CULTIVATION OF HEMP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 122.001. DEFINITIONS. In this chapter:

(1) "Cultivate" means to plant, irrigate, cultivate, or harvest a hemp plant.

(2) "Governing person" has the meaning assigned by Section 1.002, Business Organizations Code.

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

(A) on premises owned, operated, or controlled by a license holder for any period of time; or

(B) 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:

(i) a premises owned, operated, or controlled by another license holder; or

(ii) a person licensed under Chapter 443, Health and Safety Code.

(4) "Hemp" has the meaning assigned by Section 121.001.

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

(6) "License" means a hemp grower's license issued under Subchapter C.

(7) "License holder" means an individual or business entity holding a license.
(8) "Nonconsumable hemp product" means a product that contains hemp, other than a consumable hemp product as defined by Section 443.001, Health and Safety Code. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, and plastics derived from hemp.

(9) "Plot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or cultivar of hemp throughout the area.

Sec. 122.002. LOCAL REGULATION PROHIBITED. A municipality, county, or other political subdivision of this state may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, handling, transportation, or sale of hemp as authorized by this chapter.

Sec. 122.003. STATE HEMP PRODUCTION ACCOUNT. (a) The state hemp production 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 received under Section 122.052;

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

(5) penalties collected under this chapter other than a civil penalty collected under Subchapter H; 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 subtitle. Money received under this subsection shall be deposited in the account.

(d) Money in the account may be appropriated only to the department for the administration and enforcement of this subtitle.

Sec. 122.004. SEVERABILITY. (a) A provision of this chapter or its application to any person or circumstance is invalid if the secretary of the United States Department of Agriculture determines that the provision or application conflicts with 7 U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the state plan submitted under Chapter 121.

(b) The invalidity of a provision or application under Subsection (a) does not affect the other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 122.051. DEPARTMENT RULES AND PROCEDURES. (a) The department shall adopt rules and procedures necessary to implement, administer, and enforce this chapter.

(b) Rules adopted under Subsection (a) must:

(1) prescribe sampling, inspection, and testing procedures, including standards and procedures for the calibration of laboratory equipment, to ensure that the delta-9 tetrahydrocannabinol concentration of hemp plants cultivated in
this state is not more than 0.3 percent on a dry weight basis; and

(2) provide due process consistent with Chapter 2001,

Government Code, including an appeals process, to protect license
holders from the consequences of imperfect test results.

Sec. 122.052. FEES. (a) The department shall set and
collect:

(1) an application fee for an initial license in an
amount not to exceed $100;

(2) a license renewal fee in an amount not to exceed
$100;

(3) a participation fee for each location described by
Section 122.103(a)(1) and each location added after the application
is submitted in an amount not to exceed $100;

(4) a site modification fee for each change to a
location described by Section 122.103(a)(1) in an amount not to
exceed $500; and

(5) a collection and testing fee for each preharvest
test or postharvest test if performed by the department in an amount
not to exceed $300.

(b) A fee set by the department under this section may not
exceed the amount necessary to administer this chapter. The
comptroller may authorize the department to collect a fee described
by Subsection (a) in an amount greater than the maximum amount
provided by that subsection if necessary to cover the department's
costs of administering this chapter.

(c) The department may not set or collect a fee associated
with the cultivation of hemp that is not listed in Subsection (a),
other than:

(1) a fee for the organic certification of hemp under Chapter 18 or for participation in another optional marketing program; or

(2) a fee for the certification of seed or plants under Chapter 62.

(d) Fees collected by the department under this chapter are not refundable and may be appropriated only to the department for the purpose of administering this chapter.

Sec. 122.053. INSPECTIONS. (a) The department may randomly inspect land where hemp is grown to determine whether hemp is being cultivated in compliance with this chapter.

(b) The department may enter onto land described by Section 122.103(a)(1), conduct inspections, and collect and test plant samples.

(c) Using participation fees set and collected under Section 122.052(a)(3), the department shall pay the cost of inspections under this section.

(d) The Department of Public Safety may inspect, collect samples from, or test plants from any portion of a plot to ensure compliance with this chapter. A license holder shall allow the Department of Public Safety access to the plot and the property on which the plot is located for purposes of this subsection.

(e) If, after conducting an inspection or performing testing under this section, the department or the Department of Public Safety determines any portion of a plot is not compliant with this chapter, the department or the Department of Public Safety may
report the license holder to the other department or to the attorney
general.

Sec. 122.054. SAMPLE COLLECTION AND TESTING. The
department may collect samples and perform testing or contract with
a laboratory for the performance of that collection and testing on
behalf of the department. A test performed by a laboratory on behalf
of the department is considered to be performed by the department
for purposes of this chapter.

Sec. 122.055. SHIPPING CERTIFICATE OR CARGO MANIFEST. (a)
The department shall develop a shipping certificate or cargo
manifest which the department shall issue to a license holder in
connection with the transportation of a shipment of hemp plant
material originating in this state, other than sterilized seeds
that are incapable of beginning germination.

(b) A certificate or manifest developed under Subsection
(a) must include a unique identifying number for the shipment and
the department's contact information to allow law enforcement
during a roadside inspection of a motor vehicle transporting the
shipment to verify that the shipment consists of hemp cultivated in
compliance with this chapter.

(c) The department may coordinate with the Department of
Public Safety to determine whether information included on a
certificate or manifest issued under Subsection (a), including the
unique identifying number, may be made available to law enforcement
personnel through the Texas Law Enforcement Telecommunications
System or a successor system of telecommunication used by law
enforcement agencies and operated by the Department of Public
Safety.

(d) A person commits an offense if the person, with intent to deceive law enforcement, forges, falsifies, or alters a shipping certificate or cargo manifest issued under this section. An offense under this subsection is a third degree felony.

SUBCHAPTER C. HEMP GROWER'S LICENSE

Sec. 122.101. LICENSE REQUIRED; EXCEPTIONS. (a) Except as provided by Subsection (b), a person or the person's agent may not cultivate or handle hemp in this state or transport hemp outside of this state unless the person holds a license under this subchapter.

(b) A person is not required to hold a license under this subchapter to manufacture a consumable hemp product in accordance with Subtitle A, Title 6, Health and Safety Code.

Sec. 122.102. LICENSE INELIGIBILITY. (a) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:

(1) hold a license under this subchapter; or

(2) be a governing person of a business entity that holds a license under this subchapter.

(b) The department may not issue a license under this subchapter to a person who materially falsifies any information contained in an application submitted to the department under Section 122.103.

Sec. 122.103. APPLICATION; ISSUANCE. (a) A person may apply for a license under this subchapter by submitting an application to the department on a form and in the manner prescribed
by the department. The application must be accompanied by:

(1) a legal description of each location where the applicant intends to cultivate or handle hemp and the global positioning system coordinates for the perimeter of each location;

(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is cultivated or handled to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter;

(3) the application fee; and

(4) any other information required by department rule.

(b) Except as provided by Subsection (c), the department shall issue a license to a qualified applicant not later than the 60th day after the date the department receives the completed application and the required application fees.

(c) A qualified applicant who along with the application submits proof to the department that the applicant holds a license under Chapter 487, Health and Safety Code, is not required to pay an application fee, and the department shall issue the license to the applicant within the time prescribed by Subsection (b).

Sec. 122.104. TERM; RENEWAL. (a) A license is valid for one year and may be renewed as provided by this section.

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

(1) is not ineligible to hold the license under
Section 122.102:

(2) submits to the department the license renewal fee;

and

(3) does not owe any outstanding fee described by Section 122.052.

Sec. 122.105. REVOCATION. The department shall revoke a license if the license holder is convicted of a felony relating to a controlled substance under federal law or the law of any state.

SUBCHAPTER D. TESTING

Sec. 122.151. TESTING LABORATORIES. (a) Subject to Subsection (b), testing under this subchapter or Section 122.053 must be performed by:

(1) the department;

(2) an institution of higher education; or

(3) an independent testing laboratory registered under Section 122.152.

(b) To perform testing under this chapter, a laboratory described by Subsection (a) must be accredited by an independent accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard.

(c) A license holder shall select a laboratory described by Subsection (a) to perform preharvest or postharvest testing of a sample taken from the license holder's plot. A license holder may not select an independent testing laboratory under Subsection (a)(3) unless the license holder has:

(1) no ownership interest in the laboratory; or
(2) less than a 10 percent ownership interest in the
laboratory if the laboratory is a publicly traded company.

(d) A license holder must pay the costs of preharvest or
postharvest sample collection and testing in the amount prescribed
by the laboratory selected by the license holder.

(e) The department shall recognize and accept the results of
a test performed by an institution of higher education or an
independent testing laboratory described by Subsection (a). The
department shall require that a copy of the test results be sent by
the institution of higher education or independent testing
laboratory directly to the department and the license holder.

(f) The department shall notify the license holder of the
results of the test not later than the 14th day after the date the
sample was collected under Section 122.154 or the date the
department receives test results under Subsection (e).

Sec. 122.152. REGISTRATION OF INDEPENDENT TESTING
LABORATORIES. (a) The department shall register independent
testing laboratories authorized to conduct testing under Section
122.151(a)(3).

(b) A laboratory is eligible for registration if the
laboratory submits to the department proof of accreditation by an
independent accreditation body in accordance with International
Organization for Standardization ISO/IEC 17025 or a comparable or
successor standard and any required fee.

(c) The department shall annually prepare a registry of all
independent testing laboratories registered by the department and
make the registry available to license holders.
(d) The department may charge a registration fee to recover the costs of administering this section.

Sec. 122.153. PREHARVEST TESTING REQUIRED. (a) A license holder may not harvest a hemp plant or plant intended or believed to be hemp unless a representative sample of plants from the plot where the plant is grown is collected before harvest and subsequently tested using post-decarboxylation, high-performance liquid chromatography, or another similarly reliable method to determine the delta-9 tetrahydrocannabinol concentration of the sample in the manner required by this subchapter.

(b) For purposes of Subsection (a), a representative sample of plants from a plot consists of cuttings taken from at least five plants throughout the plot. The department by rule shall prescribe the minimum distance between plants from which cuttings may be taken based on the size of the plot.

(c) A laboratory performing preharvest testing under this section shall homogenize all the cuttings in the sample and test the delta-9 tetrahydrocannabinol concentration of a random sample of the homogenized material.

(d) This section does not prohibit a license holder from harvesting plants immediately after a preharvest sample is collected.

Sec. 122.154. PREHARVEST SAMPLE COLLECTION. (a) A license holder shall notify the department at least 20 days before the date the license holder expects to harvest plants from a plot in the manner prescribed by department rule.

(b) A sample must be collected by the department or another
entity described by Section 122.151(a) for purposes of preharvest
testing under Section 122.153.

(c) The department by rule may prescribe reasonable
procedures for submitting a preharvest sample collected under this
section to a testing laboratory selected by the license holder.

Sec. 122.155. OPTIONAL POSTHARVEST TESTING. (a) The
department by rule shall allow a license holder to have a single
postharvest test performed on a representative sample of plants
from a plot if the results of the preharvest test representing the
plot show a delta-9 tetrahydrocannabinol concentration of more than
0.3 percent on a dry weight basis.

(b) The department by rule shall prescribe the requirements
for a representative sample and for sample collection under this
section.

(c) If a license holder fails to request postharvest testing
on or before the 15th day after the date the license holder is
notified of the results of the preharvest test, the results of the
preharvest test are final.

Sec. 122.156. SHIPPING DOCUMENTATION FOR TEST SAMPLES. The
department shall issue documentation to an entity authorized to
collect samples of plants for testing that authorizes the
transportation of those samples from the place of collection to a
testing laboratory described by Section 122.151(a).

Sec. 122.157. FALSE LABORATORY REPORT; CRIMINAL OFFENSE.
(a) A person commits an offense if the person, with the intent to
deceive, forges, falsifies, or alters the results of a laboratory
test required or authorized under this chapter.
(b) An offense under Subsection (a) is a third degree felony.

SUBCHAPTER E. HARVEST AND USE OR DISPOSAL OF PLANTS

Sec. 122.201. HARVEST. (a) A license holder shall harvest the plants from a plot not later than the 20th day after the date a preharvest sample is collected under Section 122.154 unless field conditions delay harvesting or the department authorizes the license holder to delay harvesting. This subsection does not prohibit the license holder from harvesting the plants immediately after the preharvest sample is collected.

(b) A license holder may not sell or use harvested plants before the results of a preharvest and, if applicable, postharvest test performed on a sample representing the plants are received. If the test results are not received before the plants are harvested, the license holder shall dry and store the harvested plants until the results are received.

(c) A license holder may not commingle harvested plants represented by one sample with plants represented by another sample until the results of the tests are received.

Sec. 122.202. USE OR DISPOSAL OF HARVESTED PLANTS. (a) If the results of a preharvest or postharvest test performed on a sample show a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, the license holder may sell or use the plants represented by the sample for any purpose allowed by law.

(b) If the results of a preharvest and, if applicable, postharvest test performed on a sample show a delta-9
tetrahydrocannabinol concentration of more than 0.3 percent on a
dry weight basis:

(1) the license holder shall dispose of or destroy all
plants represented by the sample:

(A) in the manner prescribed by federal law; or
(B) in a manner approved by the department that
does not conflict with federal law; or

(2) if the department determines the plants
represented by the sample reached that concentration solely as a
result of negligence, the license holder is subject to Section
122.403(c) and may:

(A) trim the plants until the delta-9
tetrahydrocannabinol concentration of the plants is not more than
0.3 percent on a dry weight basis and dispose of the noncompliant
parts of the plants in a manner approved by the department;

(B) process the plants into fiber with a delta-9
tetrahydrocannabinol concentration of not more than 0.3 percent on
a dry weight basis and dispose of any remaining parts of the plants
in a manner approved by the department; or

(C) take any other corrective action consistent
with federal regulations adopted under 7 U.S.C. Chapter 38,
Subchapter VII.

SUBCHAPTER F. HEMP SEED
Sec. 122.251. APPLICABILITY OF SUBCHAPTER. This subchapter
does not apply to sterilized seeds that are incapable of beginning
germination.

Sec. 122.252. CERTIFICATION OR APPROVAL. (a) The
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1 department or an entity authorized to certify seed under Chapter 62
2 shall identify and certify or approve seed confirmed to produce
3 hemp.
4
5 (b) The department or entity may not certify or approve a
6 variety of hemp seed if the seed is tested and confirmed to produce
7 a plant that has delta-9 tetrahydrocannabinol concentration of more
8 than 0.3 percent on a dry weight basis. For purposes of this
9 subsection, the department may partner with a private entity or an
10 institution of higher education to test seed for the purpose of
11 certification or approval under this section.
12
13 (c) The department may authorize the importation of hemp
14 seed certified in accordance with the law of another state or
15 jurisdiction that requires as a condition of certification that
16 hemp be produced in compliance with:
17
18 (1) that state or jurisdiction's plan approved by the
19 United States Department of Agriculture under 7 U.S.C. Section
20 1639p; or
21
22 (2) a plan established under 7 U.S.C. Section 1639q if
23 that plan applies in the state or jurisdiction.
24
25 (d) The department shall maintain and make available to
26 license holders a list of hemp seeds certified or approved under
27 this section.
28
29 Sec. 122.253. PROHIBITED USE OF CERTAIN HEMP SEED. A person
30 may not sell, offer for sale, distribute, or use hemp seed in this
31 state unless the seed is certified or approved under Section
32 122.252.
SUBCHAPTER G. NONCONSUMABLE HEMP PRODUCTS

Sec. 122.301. MANUFACTURE. (a) Except as provided by Subsection (b), a state agency may not prohibit a person who manufactures a product regulated by the agency, other than an article regulated under Chapter 431, Health and Safety Code, from applying for or obtaining a permit or other authorization to manufacture the product solely on the basis that the person intends to manufacture the product as a nonconsumable hemp product.

(b) A state agency may not authorize a person to manufacture a product containing hemp for smoking, as defined by Section 443.001, Health and Safety Code.

Sec. 122.302. POSSESSION, TRANSPORTATION, AND SALE. (a) Notwithstanding any other law, a person may possess, transport, sell, and purchase legally produced nonconsumable hemp products in this state.

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

Sec. 122.303. RETAIL SALE OF OUT-OF-STATE PRODUCTS. A nonconsumable hemp product manufactured outside of this state may be sold at retail in this state unless:

(1) the hemp used to manufacture the product was cultivated illegally; or

(2) the retail sale of the product in this state violates federal law.

Sec. 122.304. TRANSPORTATION AND EXPORTATION OUT OF STATE.
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Nonconsumable hemp products may be legally transported across state lines and exported to foreign jurisdictions in a manner that is consistent with federal law and the laws of respective foreign jurisdictions.

SUBCHAPTER H. TRANSPORTATION REQUIREMENTS

Sec. 122.351. DEFINITION. In this subchapter, "peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

Sec. 122.352. POLICY. It is the policy of this state to not interfere with the interstate commerce of hemp or the transshipment of hemp through this state.

Sec. 122.353. INTERSTATE TRANSPORTATION. To the extent of a conflict between a provision of this chapter and a provision of federal law involving interstate transportation of hemp, including a United States Department of Agriculture regulation, federal law controls and conflicting provisions of this chapter do not apply.

Sec. 122.354. DEPARTMENT RULES. The department, in consultation with the Department of Public Safety, shall adopt rules regulating the transportation of hemp in this state to ensure that illegal marihuana is not transported into or through this state disguised as legal hemp.

Sec. 122.355. HEMP TRANSPORTATION ACCOUNT. (a) The hemp transportation account is a dedicated account in the general revenue fund administered by the department. The account consists of:

(1) civil penalties collected under this subchapter; and
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(2) interest and income earned on the investment of
money in the account.

(b) Money in the account may be appropriated only to the
department for the administration and enforcement of this
subchapter. The department may transfer money appropriated under
this subsection to the Department of Public Safety for the
administration and enforcement of that department's powers and
duties under this subchapter, unless prohibited by other law.

Sec. 122.356. DOCUMENTATION AND OTHER SHIPPING
REQUIREMENTS. (a) A person may not transport hemp plant material
in this state unless the hemp:

(1) is produced in compliance with:

(A) a state or tribal plan approved by the United
States Department of Agriculture under 7 U.S.C. Section 1639p; or

(B) a plan established under 7 U.S.C. Section
1639g if the hemp was cultivated in an area where that plan applies;

and

(2) is accompanied by:

(A) a shipping certificate or cargo manifest
issued under Section 122.055 if the hemp originated in this state;

or

(B) documentation containing the name and
address of the place where the hemp was cultivated and a statement
that the hemp was produced in compliance with 7 U.S.C. Chapter 38,
Subchapter VII, if the hemp originated outside this state.

(b) A person transporting hemp plant material in this state:

(1) may not concurrently transport any cargo that is
not hemp plant material; and

(2) shall furnish the documentation required by this section to the department or any peace officer on request.

Sec. 122.357. AGRICULTURAL PESTS AND DISEASES. A person may not transport in this state hemp that contains an agricultural pest or disease as provided by department rule.

Sec. 122.358. POWERS AND DUTIES OF PEACE OFFICERS. (a) A peace officer may inspect and collect a reasonably sized sample of any material from the plant Cannabis sativa L. found in a vehicle to determine the delta-9 tetrahydrocannabinol concentration of the plant material. Unless a peace officer has probable cause to believe the plant material is marihuana, the peace officer may not:

(1) seize the plant material; or

(2) arrest the person transporting the plant material.

(b) A peace officer may detain any hemp being transported in this state until the person transporting the hemp provides the documentation required by Section 122.356. The peace officer shall immediately release the hemp to the person if the person produces documentation required by that section.

(c) If a peace officer has probable cause to believe that a person transporting hemp in this state is also transporting marihuana or a controlled substance, as defined by Section 481.002, Health and Safety Code, or any other illegal substance under state or federal law, the peace officer may seize and impound the hemp along with the controlled or illegal substance.

(d) This subchapter does not limit or restrict a peace officer from enforcing to the fullest extent the laws of this state
regulating marihuana and controlled substances, as defined by Section 481.002, Health and Safety Code.

Sec. 122.359. CIVIL PENALTY. (a) A person who violates Section 122.356 is liable to this state for a civil penalty in an amount not to exceed $500 for each violation.

(b) The attorney general or any district or county attorney may bring an action to recover the civil penalty.

(c) A civil penalty collected under this section must be deposited in the hemp transportation account under Section 122.355.

Sec. 122.360. CRIMINAL OFFENSE. (a) A person commits an offense if the person violates Section 122.356.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than $1,000.

SUBCHAPTER I. ENFORCEMENT; PENALTIES

Sec. 122.401. PENALTY SCHEDULE. (a) The department by rule shall adopt a schedule of sanctions and penalties for violations of this chapter and rules adopted under this chapter that does not conflict with 7 U.S.C. Section 1639p(e).

(b) A penalty collected under this chapter other than a civil penalty collected under Subchapter H must be deposited in the state hemp production account under Section 122.003.

Sec. 122.402. ADMINISTRATIVE PENALTY. Except as provided by Section 122.403 and to the extent permitted under 7 U.S.C. Section 1639p(e), the department may impose an administrative penalty or other administrative sanction for a violation of this chapter or a rule or order adopted under this chapter, including a penalty or sanction under Section 12.020 or 12.0201.
Sec. 122.403. NEGLIGENCE VIOLATIONS BY LICENSE HOLDER. (a)

If the department determines that a license holder negligently
violated this chapter or a rule adopted under this chapter, the
department shall enforce the violation in the manner provided by 7
U.S.C. Section 1639p(e).

(b) A license holder described by Subsection (a) is not
subject to a civil, criminal, or administrative enforcement action
other than an enforcement action provided by this chapter.

(c) A license holder who violates this chapter by
cultivating plants described by Section 122.202(b)(2):

(1) must comply with an enhanced testing protocol
developed by the department;

(2) shall pay a fee in the amount of $500 for each
violation to cover the department's costs of administering the
enhanced testing protocol; and

(3) shall be included on a list maintained by the
department of license holders with negligent violations, which is
public information for purposes of Chapter 552, Government Code.

(d) A person who negligently violates this chapter three
times in any five-year period may not cultivate, process, or
otherwise produce hemp in this state before the fifth anniversary
of the date of the third violation. The department shall include
each person subject to this subsection on a list of banned
producers, which is public information for purposes of Chapter 552,
Government Code.

Sec. 122.404. OTHER VIOLATIONS BY LICENSE HOLDER. If the
department suspects or determines that a license holder violated
this chapter or a rule adopted under this chapter with a culpable
mental state greater than negligence, the department shall
immediately report the license holder to:

(1) the United States attorney general; and

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

(A) investigate the violation;

(B) institute proceedings for injunctive or
other appropriate relief on behalf of the department; or

(C) report the matter to the Department of Public
Safety and any other appropriate law enforcement agency.

SECTION 3. Subchapter A, Chapter 141, Agriculture Code, is
amended by adding Section 141.008 to read as follows:

Sec. 141.008. HEMP IN COMMERCIAL FEED. The service may
adopt rules authorizing, defining, and controlling the use of hemp
and hemp products in commercial feed.

SECTION 4. Subchapter A, Chapter 431, Health and Safety
Code, is amended by adding Section 431.011 to read as follows:

Sec. 431.011. APPLICABILITY OF CHAPTER TO CONSUMABLE HEMP
PRODUCTS AND MANUFACTURERS. (a) This chapter applies to a
consumable hemp product subject to Chapter 443. An article
regulated under this chapter may not be deemed to be adulterated
solely on the basis that the article is a consumable hemp product.

(b) Except as provided by Subsection (c), this chapter
applies to the conduct of a person who holds a license under Chapter
443.

(c) A person who holds a license under Chapter 443 related
to the processing of hemp or the manufacturing of a consumable hemp
product regulated under that chapter and is engaging in conduct
within the scope of that license is not required to hold a license
as a food manufacturer or food wholesaler under Subchapter J.

SECTION 5. Section 431.043, Health and Safety Code, is
amended to read as follows:

Sec. 431.043. ACCESS TO RECORDS. A person who is required
to maintain records under this chapter or Section 519 or 520(g) of
the federal Act or a person who is in charge or custody of those
records shall, at the request of the department or a health
authority, permit the department or health authority at all
reasonable times access to and to copy and verify the records,
including records that verify that the hemp in a consumable hemp
product was produced in accordance with Chapter 122, Agriculture
Code, or 7 U.S.C. Chapter 38, Subchapter VII.

SECTION 6. Section 431.2211, Health and Safety Code, is
amended by adding Subsection (a-3) to read as follows:

(a-3) A person is not required to hold a license under this
subchapter if the person holds a license under Chapter 443 and is
engaging in conduct within the scope of that license.

SECTION 7. Subtitle A, Title 6, Health and Safety Code, is
amended by adding Chapter 443 to read as follows:

CHAPTER 443. MANUFACTURE, DISTRIBUTION, AND SALE OF CONSUMABLE
HEMP PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 443.001. DEFINITIONS. In this chapter:

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

(2) "Department" means the Department of State Health Services.

(3) "Establishment" means each location where a person processes hemp or manufactures a consumable hemp product.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Hemp" has the meaning assigned by Section 121.001, Agriculture Code.

(6) "License" means a consumable hemp product manufacturer's license issued under this chapter.

(7) "License holder" means an individual or business entity holding a license.

(8) "Manufacture" has the meaning assigned by Section 431.002.

(9) "Process" means to extract a component of hemp, including cannabidiol or another cannabinoid, that is:

(A) sold as a consumable hemp product;

(B) offered for sale as a consumable hemp product;

(C) incorporated into a consumable hemp product;

or

(D) intended to be incorporated into a consumable hemp product.

(10) "QR code" means 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.

(11) "Smoking" means burning or igniting a substance
and inhaling the smoke or heating a substance and inhaling the
resulting vapor or aerosol.

Sec. 443.002. APPLICABILITY OF OTHER LAW. Except as
provided by Section 431.011(c), Chapter 431 applies to a license
holder and a consumable hemp product regulated under this chapter.

Sec. 443.003. LOCAL REGULATION PROHIBITED. A municipality,
county, or other political subdivision of this state may not enact,
adopt, or enforce a rule, ordinance, order, resolution, or other
regulation that prohibits the processing of hemp or the
manufacturing or sale of a consumable hemp product as authorized by
this chapter.

Sec. 443.004. SEVERABILITY. (a) A provision of this
chapter or its application to any person or circumstance is invalid
if the secretary of the United States Department of Agriculture
determines that the provision or application conflicts with 7
U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the
state plan submitted under Chapter 121, Agriculture Code.

(b) The invalidity of a provision or application under
Subsection (a) does not affect the other provisions or applications
of this chapter that can be given effect without the invalid
provision or application, and to this end the provisions of this
chapter are declared to be severable.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 443.051. RULEMAKING AUTHORITY OF EXECUTIVE
COMMISSIONER. The executive commissioner shall adopt rules and procedures necessary to administer and enforce this chapter. Rules and procedures adopted under this section must be consistent with:

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

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

SUBCHAPTER C. CONSUMABLE HEMP PRODUCT MANUFACTURER LICENSE

Sec. 443.101. LICENSE REQUIRED; EXCEPTIONS. A person may not process hemp or manufacture a consumable hemp product in this state unless the person holds a license under this subchapter.

Sec. 443.102. LICENSE INELIGIBILITY. (a) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:

(1) hold a license under this subchapter; or

(2) be a governing person of an establishment that holds a license under this subchapter.

(b) The department may not issue a license under this subchapter to a person who materially falsifies any information contained in an application submitted to the department under Section 443.103.

Sec. 443.103. APPLICATION; ISSUANCE. An individual or establishment may apply for a license under this subchapter by submitting an application to the department on a form and in the manner prescribed by the department. The application must be
accompanied by:

(1) a legal description of each location where the
applicant intends to process hemp or manufacture consumable hemp
products and the global positioning system coordinates for the
perimeter of each location;

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

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

(4) any other information required by department rule.

Sec. 443.104. TERM; RENEWAL. (a) A license is valid for
one year and may be renewed as provided by this section.

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

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

(2) submits to the department any license renewal fee;

and

(3) does not owe any outstanding fees to the
department.

Sec. 443.105. REVOCATION. The department shall revoke a
license if the license holder is convicted of a felony relating to a
controlled substance under federal law or the law of any state.

SUBCHAPTER D. TESTING OF CONSUMABLE HEMP PRODUCTS

Sec. 443.151. TESTING REQUIRED. (a) A consumable hemp product must be tested as provided by:

(1) Subsections (b) and (c); or

(2) Subsection (d).

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

(1) the concentration of various cannabinoids; and

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

(c) Before material extracted from hemp by processing is sold as, offered for sale as, or incorporated into a consumable hemp product, the material must be tested, as required by the executive commissioner, to determine:

(1) the presence of harmful microorganisms; and

(2) the presence or quantity of:

(A) any residual solvents used in processing, if applicable; and

(B) any other substance prescribed by the department.

(d) Except as otherwise provided by Subsection (e), before a consumable hemp product is sold at retail or otherwise introduced into commerce in this state, a sample representing the hemp product must be tested:
(1) by a laboratory that is accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard to determine the delta-9 tetrahydrocannabinol concentration of the product; and

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

(e) A consumable hemp product is not required to be tested under Subsection (d) if each hemp-derived ingredient of the product:

(1) has been tested in accordance with:
   (A) Subsections (b) and (c); or
   (B) Subsection (d); and

(2) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent.

Sec. 443.152. PROVISIONS RELATED TO TESTING. (a) A consumable hemp product that has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent may not be sold at retail or otherwise introduced into commerce in this state.

(b) A person licensed under Chapter 122, Agriculture Code, shall provide to a license holder who is processing hemp harvested by the person or otherwise using that hemp to manufacture a consumable hemp product the results of a test conducted under that chapter, if available, as proof that the delta-9 tetrahydrocannabinol concentration of the hemp does not exceed 0.3 percent, including for purposes of Section 443.151(b)(1).
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(c) A license holder shall make available to a seller of a consumable hemp product processed or manufactured by the license holder the results of testing required by Section 443.151. The results may accompany a shipment to the seller or be made available to the seller electronically. If the results are not able to be made available, the seller may have the testing required under Section 443.151 performed on the product and shall make the results available to a consumer.

SUBCHAPTER E. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

Sec. 443.201. POSSESSION, TRANSPORTATION, AND SALE OF CONSUMABLE HEMP PRODUCTS. (a) A person may possess, transport, sell, or purchase a consumable hemp product processed or manufactured in compliance with this chapter.

(b) The executive commissioner by rule must 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.

Sec. 443.202. REGULATION OF CERTAIN CANNABINOID OILS. (a) This section does not apply to low-THC cannabis regulated under Chapter 487.

(b) Notwithstanding any other law, a person may not sell, offer for sale, possess, distribute, or transport a cannabinoid oil, including cannabidiol oil, in this state:

(1) if the oil contains any material extracted or derived from the plant Cannabis sativa L., other than from hemp produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII;
and

(2) unless a sample representing the oil has been tested by a laboratory that is accredited by an independent accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard and found to have a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.

(c) The department and the Department of Public Safety shall 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:

(1) does not contain harmful ingredients;

(2) is produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; and

(3) has a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent.

Sec. 443.2025. REGISTRATION REQUIRED FOR RETAILERS OF CERTAIN PRODUCTS. (a) This section does not apply to low-THC cannabis regulated under Chapter 487.

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

(c) The department may issue a single registration under
Subsection (b) covering multiple locations owned, operated, or controlled by a person.

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

(1) an employee of a registrant; or

(2) an independent contractor of a registrant who sells the registrant's products at retail.

(e) A registration is valid for one year and may be renewed as prescribed by department rule.

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

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

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

(g) The department shall adopt rules to implement and administer this section.

Sec. 443.203. DECEPTIVE TRADE PRACTICE. (a) A person who sells, offers for sale, or distributes a cannabinoid oil, including cannabidiol oil, that the person claims is processed or manufactured in compliance with this chapter commits a false, misleading, or deceptive act or practice actionable under Subchapter E, Chapter 17, Business & Commerce Code, if the oil is not processed or manufactured in accordance with this chapter.

(b) A person who sells, offers for sale, or distributes a
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cannabinoid oil commits a false, misleading, or deceptive act or
practice actionable under Subchapter E, Chapter 17, Business &
Commerce Code, if the oil:

(1) contains harmful ingredients;
(2) is not produced in compliance with 7 U.S.C.
Chapter 38, Subchapter VII; or
(3) has a delta-9 tetrahydrocannabinol concentration
of more than 0.3 percent.

Sec. 443.204. RULES RELATED TO SALE OF CONSUMABLE HEMP
PRODUCTS. Rules adopted by the executive commissioner regulating
the sale of consumable hemp products must to the extent allowable by
federal law reflect the following principles:

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

Sec. 443.205. PACKAGING AND LABELING REQUIREMENTS. (a)
Before a consumable hemp product that contains or is marketed as
containing more than trace amounts of cannabinoids may be
distributed or sold, the product must be labeled in the manner
provided by this section with the following information:
(1) batch identification number;
(2) batch date;
(3) product name;
(4) a uniform resource locator (URL) that provides or links to a certificate of analysis for the product or each hemp-derived ingredient of the product;
(5) the name of the product's manufacturer; and
(6) a certification that the delta-9 tetrahydrocannabinol concentration of the product or each hemp-derived ingredient of the product is not more than 0.3 percent.

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

(1) a uniform resource locator (URL) for the manufacturer's Internet website that provides or links to the information required by that subsection; and
(2) a QR code or other bar code that may be scanned and that leads to the information required by that subsection.

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

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

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

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

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

(3) the laws of that state or jurisdiction if the
products are tested in accordance with, or in a manner similar to,
Section 443.151.

Sec. 443.207. TRANSPORTATION AND EXPORTATION OF CONSUMABLE
HEMP PRODUCTS OUT OF STATE. Consumable hemp products may be legally
transported across state lines and exported to foreign
jurisdictions in a manner that is consistent with federal law and
the laws of respective foreign jurisdictions.

SECTION 8. Sections 481.002(5) and (26), Health and Safety
Code, are amended to read as follows:

(5) "Controlled substance" means a substance,
including a drug, an adulterant, and a dilutant, listed in
Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The
term includes the aggregate weight of any mixture, solution, or
other substance containing a controlled substance. The term does
not include hemp, as defined by Section 121.001, Agriculture Code,
or the tetrahydrocannabinols in hemp.

(26) "Marihuana" means the plant Cannabis sativa L.,
whether growing or not, the seeds of that plant, and every compound,
manufacture, salt, derivative, mixture, or preparation of that
plant or its seeds. The term does not include:
(A) the resin extracted from a part of the plant
or a compound, manufacture, salt, derivative, mixture, or
preparation of the resin;
(B) the mature stalks of the plant or fiber
produced from the stalks;
(C) oil or cake made from the seeds of the plant;
(D) a compound, manufacture, salt, derivative,
mixture, or preparation of the mature stalks, fiber, oil, or cake;
(E) the sterilized seeds of the plant that are
incapable of beginning germination; or
(F) hemp, as that term is defined by Section
121.001, Agriculture Code.
SECTION 9. (a) Not later than the 90th day after the
effective date of this Act, the Department of Agriculture shall
submit for approval a state plan to the secretary of the United
States Department of Agriculture as provided by Section 121.003,
Agriculture Code, as added by this Act.
(b) The Department of Agriculture shall submit amended
state plans as provided by Section 121.003(c), Agriculture Code, as
added by this Act, as necessary until the plan is approved.
(c) As soon as practicable after the effective date of this
Act, the executive commissioner of the Health and Human Services
Commission shall adopt rules necessary to implement the changes in
law made by this Act.
SECTION 10. The Department of Agriculture and the
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1 Department of State Health Services shall begin implementing the
2 state plan approved by the secretary of the United States
3 Department of Agriculture not later than the 30th day after the date
4 on which the state plan is approved and shall fully implement the
5 state plan as soon as practicable after the state plan is approved.

SECTION 11. Notwithstanding Chapter 443, Health and Safety
7 Code, as added by this Act, a retailer may possess, transport, or
8 sell a consumable hemp product, as defined by Section 443.001,
9 Health and Safety Code, as added by this Act, that becomes part of
10 the retailer's inventory before rules under Section 443.051, Health
11 and Safety Code, as added by this Act, become effective unless the
12 product:

13 (1) is unsafe for consumption based on the presence or
14 quantity of heavy metals, pesticides, harmful microorganisms, or
15 residual solvents; or
16
17 (2) has a delta-9 tetrahydrocannabinol concentration
18 of more than 0.3 percent.

SECTION 12. Notwithstanding Section 443.2025, Health and
19 Safety Code, as added by this Act, a person is not required to
20 register a location to sell a consumable hemp product containing
21 cannabidiol at retail in this state before the 60th day after the
22 date the Department of State Health Services begins issuing
23 registrations.

SECTION 13. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate
I effect, this act takes effect September 1, 2019.

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President of the Senate

Speaker of the House

I certify that H.B. No. 1325 was passed by the House on April 24, 2019, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1325 on May 22, 2019, by the following vote: Yeas 140, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1325 was passed by the Senate, with amendments, on May 15, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: ________________
Date

_____________________
Governor