

A BILL TO BE ENTITLED
AN ACT

relating to the production and regulation of hemp and products made from hemp; requiring authorization to produce hemp; authorizing penalties; authorizing fees.

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

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

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

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

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

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

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

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

SECTION 3. 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:

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

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

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

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

CHAPTER 112. STATE HEMP PRODUCTION PLAN

Sec. 112.001. 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. 112.002. 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. 112.003. DEPARTMENT RULES. (a) The department, after consulting with the governor and attorney general, shall adopt rules consistent with Chapter 113 providing:

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

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

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

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

(5) 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 Subtitle G, Agricultural Marketing Act of 1946 (7 U.S.C. Chapter 38, Subchapter VII);

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

(7) standards for certifying that this state has the resources and personnel to carry out the practices and procedures described by Subdivisions (1) through (6).

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

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

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

(c) If a plan submitted by the department 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 rules under Section 112.003 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 in adopting rules under Section 112.003 and otherwise developing the plan.

CHAPTER 113. PRODUCTION OF HEMP
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Commercial sale" means the sale of a product in the stream of commerce at retail, at wholesale, or on the Internet.

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

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

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

(B) in a hemp product.

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

(A) on premises owned, operated, or controlled by a hemp producer 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 hemp producer to a premises owned, operated, or controlled by another hemp producer.

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

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

(7) "Hemp product" means a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale. The term includes cosmetics, personal care products, food intended for human or animal consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids such as cannabidiol.

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

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

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

Sec. 113.003. STATE HEMP PROGRAM ACCOUNT. (a) The state hemp program 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 deposited to the account under Section 113.053;

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

- (5) penalties collected under this chapter; and
- (6) funds from any other source.

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

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

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

SUBCHAPTER B. STATE HEMP PROGRAM

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

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

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

(2) regulates hemp production in this state.

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

(1) relevant public agencies; and

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

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

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

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

(3) prescribe sampling and testing procedures to ensure that hemp plants cultivated, handled, or processed in this state, and hemp products processed in this state, do not exceed the federally defined THC level for hemp;

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

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

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

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

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

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

(b) A person seeking to participate in the state hemp program as a hemp producer must apply to the department on a form

and in the manner prescribed by the department. The application must be accompanied by:

(1) a legal description and the global positioning system coordinates for each location where the person intends to cultivate or process hemp;

(2) written consent 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, processed, or stored to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this subchapter;

(3) any fees required by the department; and

(4) any other information required by department rule.

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

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

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

Sec. 113.056. ENFORCEMENT. (a) If the department determines that a hemp producer has negligently violated this subchapter or a rule adopted under this subchapter, the department shall enforce the violation in the manner provided by Section 297B(e), Agricultural Marketing Act of 1946 (7 U.S.C. Section 1639p(e)). A hemp producer is not subject to a civil or criminal penalty under this subsection.

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

(1) the United States attorney general; and

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

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

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

SUBCHAPTER C. HEMP PRODUCTS

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

Sec. 113.102. HEMP-DERIVED ADDITIVES. Notwithstanding any other law, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for human or animal consumption, and such an addition is not considered an adulteration of those products.

Sec. 113.103. POSSESSION, TRANSPORTATION, AND SALE OF HEMP

PRODUCTS. (a) Notwithstanding any other law, a person may possess, transport, sell, and purchase legally produced hemp products in this state.

(b) The department by rule must provide to a retailer of 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. 113.104. RULES RELATED TO SALE OF HEMP PRODUCTS. The department, in consultation with the Department of State Health Services, may adopt rules to regulate the sale of hemp products that reflect the following principles:

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

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

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

Sec. 113.106. TRANSPORTATION AND EXPORTATION OF HEMP PRODUCTS OUT OF STATE. Hemp products may be legally transported across state lines and exported to foreign countries in a manner that is consistent with federal law and the laws of respective foreign countries.

SUBCHAPTER D. ENFORCEMENT; PENALTIES

Sec. 113.151. 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 Section 297B(e), Agricultural Marketing Act of 1946 (7 U.S.C. Section 1639p(e)).

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

Sec. 113.152. ADMINISTRATIVE PENALTY. 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.

SECTION 6. 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 112.001, Agriculture Code, or any tetrahydrocannabinols or other substances 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#]

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

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

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

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

SECTION 8. (a) Not later than January 1, 2020, the Department of Agriculture shall adopt rules and procedures necessary to implement Chapter 113, Agriculture Code, as added by this Act.

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

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