

By: Perry

S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of consumable hemp products and the
3 hemp-derived cannabinoids contained in those products; requiring a
4 registration; imposing fees; creating criminal offenses; providing
5 an administrative penalty.

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

7 SECTION 1. Section 443.001(1), Health and Safety Code, is
8 amended to read as follows:

9 (1) "Consumable hemp product" means food, a drug, a
10 device, or a cosmetic, as those terms are defined by Section
11 431.002, that contains hemp or one or more hemp-derived
12 cannabinoids, including cannabidiol or cannabigerol.

13 SECTION 2. Subchapter A, Chapter 443, Health and Safety
14 Code, is amended by adding Section 443.0025 to read as follows:

15 Sec. 443.0025. LOW-THC CANNABIS. This chapter does not
16 apply to low-THC cannabis regulated under Chapter 487.

17 SECTION 3. Section 443.104(b), Health and Safety Code, is
18 amended to read as follows:

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

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

23 (2) has not violated this chapter or a rule adopted
24 under this chapter;

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

3 (4) [~~(3)~~] does not owe any outstanding fees to the
4 department.

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

7 Sec. 443.106. RESTRICTION ON MANUFACTURE OF CERTAIN
8 CONSUMABLE HEMP PRODUCTS. A license holder may not manufacture a
9 consumable hemp product that contains any amount of a cannabinoid
10 other than cannabidiol or cannabigerol.

11 SECTION 5. Sections 443.151(b), (d), and (e), Health and
12 Safety Code, are amended to read as follows:

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

17 (1) the concentration and identity of the [~~various~~]
18 cannabinoids in the plant; and

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

22 (d) Except as otherwise provided by Subsection (e), before a
23 consumable hemp product is sold at retail or otherwise introduced
24 into commerce in this state, a sample representing the hemp product
25 must be tested:

26 (1) by a laboratory that is accredited by an
27 accreditation body in accordance with International Organization

1 for Standardization ISO/IEC 17025 or a comparable or successor
2 standard to determine the identity and [~~delta-9~~
3 ~~tetrahydrocannabinol~~] concentration of any cannabinoids contained
4 in the product; and

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

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

12 (1) has been tested in accordance with~~+~~

13 [~~(A) Subsections (b) and (c); or~~

14 [~~(B)~~] Subsection (d); and

15 (2) does not contain any amount of a cannabinoid other
16 than cannabidiol or cannabigerol [~~have a delta-9~~
17 ~~tetrahydrocannabinol concentration of more than 0.3 percent~~].

18 SECTION 6. Sections 443.152(a) and (c), Health and Safety
19 Code, are amended to read as follows:

20 (a) A consumable hemp product that contains any amount of a
21 cannabinoid other than cannabidiol or cannabigerol [~~has a delta-9~~
22 ~~tetrahydrocannabinol concentration of more than 0.3 percent~~] may
23 not be sold at retail or otherwise introduced into commerce in this
24 state.

25 (c) A license holder shall make available to a seller of a
26 consumable hemp product processed or manufactured by the license
27 holder the results of testing required by Section 443.151. The

1 results may accompany a shipment to the seller or be made available
2 to the seller electronically. If the results are not able to be
3 made available, the seller may have the testing required under
4 Section 443.151 performed on the product and shall make the results
5 available to a consumer and the department.

6 SECTION 7. Sections 443.202(b) and (c), Health and Safety
7 Code, are amended to read as follows:

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

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

15 (2) unless a sample representing the oil has been
16 tested by a laboratory that is accredited by an independent
17 accreditation body in accordance with International Organization
18 for Standardization ISO/IEC 17025 or a comparable or successor
19 standard and found to not contain any amount of a cannabinoid other
20 than cannabidiol or cannabigerol [~~have a delta-9~~
21 ~~tetrahydrocannabinol concentration of not more than 0.3 percent~~].

22 (c) The department [~~and the Department of Public Safety~~]
23 shall establish a process for the [~~random~~] testing of cannabinoid
24 oil[~~, including cannabidiol oil,~~] at various retail and other
25 establishments that sell, offer for sale, distribute, or use the
26 oil to ensure that the oil:

27 (1) does not contain harmful ingredients;

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

3 (3) does not contain any amount of a cannabinoid other
4 than cannabidiol or cannabigerol [~~has a delta-9~~
5 ~~tetrahydrocannabinol concentration of not more than 0.3 percent~~].

6 SECTION 8. The heading to Section 443.2025, Health and
7 Safety Code, is amended to read as follows:

8 Sec. 443.2025. REGISTRATION REQUIRED FOR RETAILERS OF
9 CERTAIN CONSUMABLE HEMP PRODUCTS.

10 SECTION 9. Sections 443.2025(b), (d), (f), and (g), Health
11 and Safety Code, are amended to read as follows:

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

19 (d) A person is not required to register with the department
20 under Subsection (b) if the person is[+]

21 [~~(1)~~] an employee of a registrant[~~, or~~
22 [~~(2)~~ ~~an independent contractor of a registrant who~~
23 ~~sells the registrant's products at retail~~].

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

27 (1) a single location at which consumable hemp

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

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

5 (g) The department shall adopt rules to:

6 (1) implement and administer this section; and

7 (2) require a person required to register under this
8 section to provide to the department information regarding the type
9 and concentration of each cannabinoid present in each consumable
10 hemp product offered for sale by the person.

11 SECTION 10. Section 443.203, Health and Safety Code, is
12 amended to read as follows:

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

21 (b) A person who sells, offers for sale, or distributes a
22 consumable hemp product [~~cannabinoid oil~~] commits a false,
23 misleading, or deceptive act or practice actionable under
24 Subchapter E, Chapter 17, Business & Commerce Code, if [~~the oil~~]:

25 (1) the product contains harmful ingredients;

26 (2) the product is not produced in compliance with 7

27 U.S.C. Chapter 38, Subchapter VII; [~~or~~]

1 (3) the product contains any amount of a cannabinoid
2 other than cannabidiol or cannabigerol; or

3 (4) the product's packaging or advertising indicates
4 that the product is for medical use [~~has a delta-9~~
5 ~~tetrahydrocannabinol concentration of more than 0.3 percent~~].

6 SECTION 11. Section 443.204, Health and Safety Code, is
7 amended to read as follows:

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

12 (1) hemp-derived [~~cannabinoids, including~~]
13 cannabidiol and cannabigerol [7] are not considered controlled
14 substances or adulterants;

15 (2) products containing [~~one or more~~] hemp-derived
16 [~~cannabinoids, such as~~] cannabidiol or cannabigerol[7] intended
17 for ingestion are considered foods, not controlled substances or
18 adulterated products; and

19 (3) consumable hemp products must be packaged and
20 labeled in the manner provided by Section 443.205[7] ~~and~~

21 [~~(4) the processing or manufacturing of a consumable~~
22 ~~hemp product for smoking is prohibited~~].

23 SECTION 12. Section 443.205(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) Before a consumable hemp product that contains or is
26 marketed as containing [~~more than trace amounts of~~] cannabinoids
27 may be distributed or sold, the product must be:

1 (1) labeled in the manner provided by this subchapter,
2 including [~~section with~~] the following information:

3 (A) [~~(1)~~] batch identification number;

4 (B) [~~(2)~~] batch date;

5 (C) [~~(3)~~] product name;

6 (D) [~~(4)~~] a uniform resource locator (URL) that
7 provides or links to a certificate of analysis for the product or
8 each hemp-derived ingredient of the product;

9 (E) [~~(5)~~] the name of the product's
10 manufacturer;

11 (F) the amount of cannabidiol or cannabigerol in
12 each serving or unit of the product; and

13 (G) [~~(6)~~] a certification that the concentration
14 of any cannabinoid other than cannabidiol or cannabigerol in the
15 product is not more than 0.0001 percent on a dry weight basis; and

16 (2) prepackaged or placed at the time of sale in
17 packaging or a container that is:

18 (A) tamper-evident;

19 (B) child-resistant; and

20 (C) if the product contains multiple servings or
21 consists of multiple products purchased in one transaction,
22 resealable in a manner that allows the child-resistant mechanism to
23 remain intact [~~delta-9 tetrahydrocannabinol concentration of the~~
24 ~~product or each hemp-derived ingredient of the product is not more~~
25 ~~than 0.3 percent)].~~

26 SECTION 13. Subchapter E, Chapter 443, Health and Safety
27 Code, is amended by adding Sections 443.2055 and 443.2056 to read as

1 follows:

2 Sec. 443.2055. CRIMINAL OFFENSE OF PROHIBITED MARKETING OF
3 CONSUMABLE HEMP PRODUCT OR PACKAGING IN MANNER ATTRACTIVE TO
4 MINORS. (a) A person commits an offense if the person markets,
5 advertises, sells, or causes to be sold an edible consumable hemp
6 product containing a hemp-derived cannabinoid that:

7 (1) is in the shape of a human, animal, fruit, or
8 cartoon or in another shape that is attractive to children; or

9 (2) is in packaging or a container that:

10 (A) is in the shape of a human, animal, fruit, or
11 cartoon or in another shape that is attractive to children;

12 (B) depicts an image of a human, animal, fruit,
13 or cartoon or another image that is attractive to children;

14 (C) imitates or mimics trademarks or trade dress
15 of products that are or have been primarily marketed to minors;

16 (D) includes a symbol that is primarily used to
17 market products to minors;

18 (E) includes an image of a celebrity; or

19 (F) includes an image that resembles a food
20 product, including candy or juice.

21 (b) In this section, a cartoon includes a depiction of an
22 object, person, animal, creature, or any similar caricature that:

23 (1) uses comically exaggerated features and
24 attributes;

25 (2) assigns human characteristics to animals, plants,
26 or other objects; or

27 (3) has unnatural or extra-human abilities, such as

1 imperviousness to pain or injury, x-ray vision, tunneling at very
2 high speeds, or transformation.

3 (c) An offense under this section is a Class A misdemeanor.

4 Sec. 443.2056. PACKAGING THAT IS MISLEADING PROHIBITED.

5 The packaging and labeling of consumable hemp products that contain
6 or are marketed as containing hemp-derived cannabinoids may not
7 depict any statement, artwork, or design that would likely mislead
8 a person to believe the package does not contain a hemp-derived
9 cannabinoid.

10 SECTION 14. Section 443.206, Health and Safety Code, is
11 amended to read as follows:

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

17 (1) were manufactured or processed in compliance with:

18 (A) [~~(1)~~] that state's [~~state~~] or jurisdiction's
19 plan approved by the United States Department of Agriculture under
20 7 U.S.C. Section 1639p;

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

23 (C) [~~(3)~~] the laws of that state or jurisdiction
24 if the products are tested in accordance with, or in a manner
25 similar to, Section 443.151;

26 (2) do not contain any amount of a cannabinoid other
27 than cannabidiol or cannabigerol; and

1 (3) are packaged and labeled in the manner provided by
2 this subchapter.

3 SECTION 15. Chapter 443, Health and Safety Code, is amended
4 by adding Subchapters F and G to read as follows:

5 SUBCHAPTER F. CRIMINAL OFFENSES

6 Sec. 443.251. OFFENSE: MANUFACTURE, DELIVERY, OR
7 POSSESSION WITH INTENT TO DELIVER OF CERTAIN CONSUMABLE HEMP
8 PRODUCTS. (a) A person commits an offense if the person knowingly
9 manufactures, delivers, or possesses with intent to deliver a
10 consumable hemp product that contains any amount of a cannabinoid
11 other than cannabidiol or cannabigerol.

12 (b) An offense under this section is a felony of the third
13 degree.

14 (c) If conduct constituting an offense under this section
15 also constitutes an offense under another law, the actor may be
16 prosecuted under this section, the other law, or both.

17 Sec. 443.252. OFFENSE: POSSESSION OF CERTAIN CONSUMABLE
18 HEMP PRODUCTS. (a) A person commits an offense if the person
19 knowingly or intentionally possesses a consumable hemp product that
20 contains any amount of a cannabinoid other than cannabidiol or
21 cannabigerol.

22 (b) An offense under this section is a Class A misdemeanor.

23 (c) If conduct constituting an offense under this section
24 also constitutes an offense under another law, the actor may be
25 prosecuted under this section, the other law, or both.

26 Sec. 443.253. OFFENSE: SALE OR DISTRIBUTION OF CERTAIN
27 CONSUMABLE HEMP PRODUCTS TO PERSONS YOUNGER THAN 21 YEARS OF AGE;

1 PROOF OF AGE REQUIRED. (a) A person commits an offense if the
2 person, with criminal negligence, sells a consumable hemp product
3 that contains or is marketed as containing hemp-derived
4 cannabinoids to a person who is younger than 21 years of age.

5 (b) An employee of the owner of a store in which consumable
6 hemp products that contain or are marketed as containing
7 hemp-derived cannabinoids are sold at retail is criminally
8 responsible and subject to prosecution for an offense under this
9 section that occurs in connection with a sale by the employee.

10 (c) An offense under this section is a Class B misdemeanor.

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

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

22 (f) The owner of a store in which consumable hemp products
23 that contain or are marketed as containing hemp-derived
24 cannabinoids are sold, or an employee of the owner, may not display
25 consumable hemp products for sale adjacent to products that are
26 legal for children to consume.

27 Sec. 443.254. OFFENSE: MANUFACTURE, DISTRIBUTION, OR SALE

1 OF CONSUMABLE HEMP PRODUCTS FOR SMOKING. (a) A person commits an
2 offense if the person manufactures, distributes, sells, or offers
3 for sale a consumable hemp product for smoking.

4 (b) An offense under this section is a Class B misdemeanor.

5 Sec. 443.255. OFFENSE: SALE OR DELIVERY OF CERTAIN
6 CONSUMABLE HEMP PRODUCTS NEAR SCHOOL. (a) In this section,
7 "school" and "premises" have the meanings assigned by Section
8 [481.134](#).

9 (b) A person commits an offense if the person sells, offers
10 for sale, or delivers a consumable hemp product containing a
11 hemp-derived cannabinoid in, on, or within 1,000 feet of the
12 premises of a school.

13 (c) An offense under this section is a Class B misdemeanor.

14 Sec. 443.256. OFFENSE: PROVISION OF CERTAIN CONSUMABLE HEMP
15 PRODUCT BY COURIER, DELIVERY, OR MAIL SERVICE. (a) A person
16 commits an offense if the person provides a consumable hemp product
17 containing a hemp-derived cannabinoid by courier, delivery, or mail
18 service.

19 (b) An offense under this section is a Class A misdemeanor.

20 SUBCHAPTER G. ADMINISTRATIVE ENFORCEMENT

21 Sec. 443.301. ENFORCEMENT BY DEPARTMENT. (a) The
22 department shall receive and investigate complaints concerning
23 violations of this chapter by:

24 (1) a license holder under Subchapter C; or

25 (2) a registrant under Section [443.2025](#).

26 (b) The department may revoke, suspend, or refuse to renew a
27 license or registration for a violation of this chapter or a rule

1 adopted under this chapter.

2 (c) The department may impose an administrative penalty in
3 an amount not to exceed \$10,000 against a license holder or
4 registrant for each violation of this chapter or a rule adopted
5 under this chapter.

6 (d) A proceeding under this section is a contested case
7 under Chapter 2001, Government Code.

8 SECTION 16. The following provisions of the Health and
9 Safety Code are repealed:

10 (1) Section 443.201; and

11 (2) Sections 443.202(a) and 443.2025(a).

12 SECTION 17. Not later than December 1, 2025, the Department
13 of State Health Services shall adopt the rules required by Section
14 443.2025(g), Health and Safety Code, as amended by this Act.

15 SECTION 18. (a) Except as otherwise provided by Subsection
16 (b) of this section, the changes in law made by this Act apply to the
17 manufacture, sale, delivery, or possession of a consumable hemp
18 product that occurs on or after the effective date of this Act. The
19 manufacture, sale, delivery, or possession of a consumable hemp
20 product that occurs before the effective date of this Act is
21 governed by the law in effect on the date the manufacture, sale,
22 delivery, or possession occurred and the former law is continued in
23 effect for that purpose.

24 (b) A person selling consumable hemp products on the
25 effective date of this Act may continue to sell those products and
26 is not required to register under Section 443.2025, Health and
27 Safety Code, as amended by this Act, before January 1, 2026.

1 SECTION 19. This Act takes effect September 1, 2025.