

By: Gutierrez

H.B. No. 420

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the cultivation, manufacture,  
3 distribution, sale, testing, possession, and use of cannabis and  
4 cannabis products; authorizing the imposition of taxes and fees;  
5 requiring an occupational license; creating a criminal offense;  
6 to border security enhancement projects and the creation of a  
7 fund to pay for those projects; to authorizing the possession,  
8 use, cultivation, distribution, transportation, and delivery of  
9 medical cannabis and the licensing of medical cannabis  
10 dispensing organizations.

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

12 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is  
13 amended by adding Chapter 491 to read as follows:

14 CHAPTER 491. REGULATION AND TAXATION OF CANNABIS

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Sec. 491.001. SHORT TITLE. This chapter may be cited as  
17 the Real Solutions Act.

18 Sec. 491.002. DEFINITIONS. In this chapter:

19 (1) "Adult" means an individual 21 years of age or  
20 older.

21 (2) "Cannabis" means the plant Cannabis sativa L.,  
22 whether growing or not, the seeds of that plant, and every  
23 compound, manufacture, salt, derivative, mixture, or preparation  
24 of that plant or its seeds. The term includes cannabis

1 concentrate. The term does not include:

2 (A) the mature stalks of the plant or fiber  
3 produced from the stalks;

4 (B) oil or cake made from the seeds of the  
5 plant;

6 (C) a compound, manufacture, salt, derivative,  
7 mixture, or preparation of the mature stalks, fiber, oil, or  
8 cake; or

9 (D) the sterilized seeds of the plant that are  
10 incapable of beginning germination.

11 (3) "Cannabis concentrate" means the resin extracted  
12 from a part of the plant Cannabis sativa L. or a compound,  
13 manufacture, salt, derivative, mixture, or preparation of the  
14 resin.

15 (4) "Cannabis establishment" means an entity licensed  
16 by the department under this chapter to process and dispense  
17 cannabis and cannabis products to an adult.

18 (5) "Cannabis grower" means an entity licensed by the  
19 department to cultivate cannabis for sale and distribution to a  
20 cannabis establishment.

21 (6) "Cannabis product" means a product that contains  
22 cannabis and is intended for use or consumption by humans,  
23 including as an edible product or as a topical product,  
24 ointment, oil, or tincture. The term includes products that  
25 consist of cannabis and other ingredients.

26 (7) "Cannabis secure transporter" means an entity  
27 licensed by the department under this chapter to transport

1 cannabis from a cannabis grower to a cannabis establishment.

2 (8) "Cannabis testing facility" means an entity  
3 licensed by the department under this chapter to analyze the  
4 safety and potency of cannabis and cannabis products.

5 (9) "Commission" means the Texas Commission of  
6 Licensing and Regulation.

7 (10) "Cultivate" means to propagate, breed, grow,  
8 harvest, dry, cure, or separate parts of the cannabis plant by  
9 manual or mechanical means.

10 (11) "Department" means the Texas Department of  
11 Licensing and Regulation.

12 (12) "Executive director" means the executive  
13 director of the department.

14 (13) "Process" means to separate or otherwise prepare  
15 parts of the cannabis plant and to compound, blend, extract,  
16 infuse, or otherwise make or prepare cannabis concentrate or  
17 cannabis products.

18 SUBCHAPTER B. PROTECTIONS FROM LEGAL ACTION RELATED TO CANNABIS

19 Sec. 491.051. AUTHORIZED CONDUCT: PERSONAL USE OF  
20 CANNABIS. (a) An adult is authorized under this chapter to:

21 (1) use, possess, and transport not more than 2.5  
22 ounces of cannabis, except that not more than 15 grams of that  
23 amount may be in the form of cannabis concentrate;

24 (2) transfer without remuneration to another adult  
25 not more than 2.5 ounces of cannabis, except that not more than  
26 15 grams of that amount may be in the form of cannabis  
27 concentrate and provided that the transfer is not advertised or

1 promoted to the public;

2 (3) cultivate for personal use not more than 12  
3 cannabis plants in an area on the premises of the adult's  
4 private residence, provided that the cultivation occurs in an  
5 enclosed area that is:

6 (A) equipped with locks or other security  
7 devices that restrict access to the area; and

8 (B) not visible from a public place without the  
9 use of aircraft or optical aids;

10 (4) possess, store, or process on the premises of the  
11 adult's private residence not more than:

12 (A) the amount of cannabis produced from plants  
13 cultivated on the premises, provided that:

14 (i) not more than the 12 cannabis plants  
15 are possessed, cultivated, or processed on the premises at one  
16 time; and

17 (ii) any amount of cannabis in excess of  
18 2.5 ounces is stored in a container or area equipped with locks  
19 or other security devices that restrict access to the contents  
20 of the container or area; and

21 (B) 10 ounces of cannabis that was not produced  
22 from plants cultivated on the premises, provided that the amount  
23 in excess of 2.5 ounces is stored in a container or area  
24 described by Paragraph (A) (ii);

25 (5) use, possess, process, transport, or transfer to  
26 another adult without remuneration, an amount of cannabis  
27 products specified by rule of the commission as the allowable

1 amount of cannabis for purposes of this subdivision; and

2 (6) use, possess, transport, or transfer to another  
3 adult without remuneration, cannabis-related drug paraphernalia.

4 Sec. 491.052. AUTHORIZED CONDUCT: RETAIL CANNABIS  
5 OPERATIONS. This chapter authorizes the conduct of:

6 (1) a cannabis grower director, manager, or employee  
7 who, acting within the scope of the grower's license:

8 (A) cultivates cannabis or produces cannabis  
9 products for sale or transfer to a cannabis establishment; and

10 (B) possesses cannabis or cannabis-related drug  
11 paraphernalia;

12 (2) a cannabis establishment director, manager, or  
13 employee who, acting within the scope of the establishment's  
14 license, possesses cannabis or cannabis products or transfers or  
15 sells cannabis, cannabis products, or cannabis-related drug  
16 paraphernalia to an adult;

17 (3) a cannabis secure transporter director, manager,  
18 or employee who, acting within the scope of the secure  
19 transporter's license, transports or transfers cannabis or  
20 cannabis products from a cannabis grower to a cannabis  
21 establishment; and

22 (4) a cannabis testing facility director, manager, or  
23 employee who, acting within the scope of the facility's license,  
24 possesses, tests, or transports cannabis, cannabis products, or  
25 cannabis-related drug paraphernalia.

26 Sec. 491.053. PROTECTION FROM LEGAL ACTION FOR AUTHORIZED  
27 CONDUCT. (a) A person is not subject to arrest, prosecution,

1 forfeiture of property, or penalty in any manner or denial of  
2 any right or privilege, including any civil penalty or  
3 disciplinary action by a court or occupational or professional  
4 licensing board or bureau solely due to conduct authorized under  
5 Section 491.051 or 491.052.

6 (b) The fact that a person engages in conduct authorized  
7 by Section 491.051 or 491.052 does not in itself constitute  
8 grounds for denying, limiting, or restricting conservatorship or  
9 possession of or access to a child under Title 5, Family Code.

10 Sec. 491.054. PROHIBITION OF CANNABIS ON PRIVATE PROPERTY;  
11 EXCEPTION. (a) Except as otherwise provided by Subsection (b),  
12 a person may prohibit or restrict the possession, consumption,  
13 cultivation, distribution, processing, sale, or display of  
14 cannabis or cannabis products on property the person owns,  
15 occupies, or manages.

16 (b) A person may not prohibit a residential tenant under a  
17 lease agreement from possessing cannabis, cannabis products, or  
18 cannabis-related drug paraphernalia or consuming cannabis by  
19 means other than smoking on the premises.

20 Sec. 491.055. CONDUCT NOT AUTHORIZED UNDER THIS CHAPTER.

21 This chapter does not authorize the following conduct:

22 (1) operating a motor vehicle while intoxicated or  
23 otherwise violating Chapter 49, Penal Code;

24 (2) smoking or otherwise consuming cannabis in:

25 (A) a motor vehicle while the vehicle is on a  
26 public road;

27 (B) an aircraft, while the aircraft is in flight

1 or in a public area;

2 (C) a watercraft, while the watercraft is on a  
3 public waterway; or

4 (D) a public place, unless:

5 (i) the public place is an area designated  
6 by a political subdivision as an area where using cannabis is  
7 permissible; and

8 (ii) the area described by Subparagraph (i)  
9 is not accessible to persons younger than 21 years of age;

10 (3) possessing or consuming cannabis or cannabis  
11 products or possessing cannabis-related drug paraphernalia:

12 (A) on the premises of a public or private child  
13 care facility, prekindergarten, or primary or secondary school;

14 (B) on a school bus that serves a facility or  
15 school described by Paragraph (A); or

16 (C) on the premises of a correctional facility,  
17 as defined by Article 18A.251, Code of Criminal Procedure, or a  
18 civil commitment facility; or

19 (4) the separation of resin from the cannabis plant  
20 by butane extraction or another method that uses a substance  
21 with a flashpoint below 100 degrees Fahrenheit in a public place  
22 or motor vehicle or within the curtilage of a residential  
23 structure.

24 SUBCHAPTER C. DUTIES OF DEPARTMENT

25 Sec. 491.101. DUTIES OF DEPARTMENT. The department shall  
26 administer this chapter.

27 Sec. 491.102. RULES; FEES. (a) The commission shall

1 adopt all necessary rules for the administration and enforcement  
2 of this chapter, including rules imposing fees under this  
3 chapter in amounts sufficient to cover the cost of administering  
4 this chapter.

5 (b) The commission by rule shall set application and  
6 license fees under this chapter in amounts sufficient to  
7 administer this chapter and may annually adjust the fees for  
8 inflation.

9 (c) The department shall deposit a fee collected under  
10 this chapter to the credit of the cannabis regulation fund  
11 established under Section 491.255.

12 (d) The commission shall adopt rules for the reasonable  
13 regulation of cannabis growers and cannabis establishments,  
14 including rules that:

15 (1) restrict the use of dangerous pesticides;

16 (2) regulate the packaging and labeling of cannabis  
17 products available at a cannabis establishment;

18 (3) restrict advertising and display of cannabis and  
19 cannabis products;

20 (4) restrict the maximum amount of  
21 tetrahydrocannabinol that may be contained in a cannabis product  
22 sold to a consumer;

23 (5) require recordkeeping and monitoring to track the  
24 transfer of cannabis and cannabis products between license  
25 holders; and

26 (6) require security measures provided that the  
27 security measures do not restrict the cultivation of cannabis



1 outdoors or in greenhouses.

2 Sec. 491.103. TESTING, PACKAGING, AND LABELING STANDARDS.

3 (a) The commission by rule shall establish standards for:

4 (1) the operation of cannabis testing facilities;

5 (2) the testing of cannabis and cannabis products;

6 and

7 (3) packaging and labeling requirements for cannabis

8 and cannabis products.

9 (b) In establishing standards for packaging and labeling  
10 requirements under Subsection (a)(3), the commission shall  
11 require that:

12 (1) cannabis and cannabis products be packaged in  
13 opaque, resealable, child-resistant packaging that does not  
14 resemble and may not be easily confused with typical packaging  
15 for commercially sold candy;

16 (2) cannabis and cannabis products be clearly  
17 labeled; and

18 (3) the label for a cannabis product disclose the  
19 amount of cannabis contained in that product.

20 Sec. 491.104. SECURE TRANSPORTATION OF CANNABIS. The  
21 commission by rule shall establish standards applicable to  
22 cannabis secure transporters, including standards to ensure all  
23 cannabis establishments are properly served.

24 Sec. 491.105. CONFLICT OF INTEREST. (a) A person who is  
25 involved in the implementation, administration, or enforcement  
26 of this chapter as a member of the commission, an employee of  
27 the department, or a consultant to the commission or the

1 department may not also hold a pecuniary interest in any entity  
2 licensed by the department under this chapter.

3 (b) A person who holds a pecuniary interest in a cannabis  
4 testing facility or a cannabis secure transporter that holds a  
5 license issued under this chapter may not hold a pecuniary  
6 interest in any entity that holds a cannabis establishment or  
7 cannabis grower license issued under this chapter.

8 (c) A person may not hold a pecuniary interest in more  
9 than five entities that are licensed under this chapter as a  
10 cannabis grower, except as provided by department rule.

11 Sec. 491.106. ANNUAL REPORT. The executive director shall  
12 annually submit to the governor a report providing the following  
13 information regarding licensing and regulation under this  
14 chapter:

15 (1) the number of licenses issued for each class of  
16 license under this chapter;

17 (2) demographic information pertaining to license  
18 holders;

19 (3) a description of any fines imposed on a license  
20 holder or disciplinary actions taken against a license holder by  
21 the department; and

22 (4) a statement of revenues and expenses of the  
23 department related to the implementation, administration, and  
24 enforcement of this chapter.

25 SUBCHAPTER D. LICENSING

26 Sec. 491.151. LICENSE REQUIRED. A license issued by the  
27 department under this chapter is required to operate as a

1 cannabis grower, cannabis establishment, cannabis secure  
2 transporter, or cannabis testing facility.

3 Sec. 491.152. QUALIFICATIONS FOR LICENSURE. The  
4 commission by rule shall provide for each class of license  
5 issued under this chapter qualifications for licensure that are  
6 demonstrably related to the operations authorized and duties  
7 imposed under that class of license.

8 Sec. 491.153. APPLICATION. (a) A person may apply for an  
9 initial or renewal license under this chapter by submitting a  
10 form prescribed by the department along with the application fee  
11 in an amount set by the commission.

12 (b) The application must indicate the class of license  
13 sought and include the name and address of the applicant, the  
14 name and address of each of the applicant's directors, managers,  
15 and employees, and any other information considered necessary by  
16 the department to determine the applicant's eligibility for the  
17 license.

18 Sec. 491.154. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

19 (a) The department shall issue or renew a license under this  
20 chapter only if:

21 (1) the department determines the applicant meets the  
22 qualifications for the class of license sought established under  
23 Section 491.152; and

24 (2) the applicant is in compliance with any  
25 applicable local regulations.

26 (b) If the department denies the issuance or renewal of a  
27 license under Subsection (a), the department shall give written

1 notice of the grounds for denial to the applicant.

2 (c) A license issued or renewed under this section expires  
3 on the second anniversary of the date of issuance or renewal, as  
4 applicable.

5 Sec. 491.155. DUTY TO MAINTAIN QUALIFICATIONS. A license  
6 holder shall maintain compliance at all times with the  
7 qualifications for the applicable class of license established  
8 under Section 491.152.

9 Sec. 491.156. LICENSE SUSPENSION OR REVOCATION. (a) The  
10 department may at any time suspend or revoke a license issued  
11 under this chapter if the department determines that the license  
12 holder has not maintained the qualifications established under  
13 Section 491.152 or has failed to comply with a duty imposed  
14 under this chapter.

15 (b) The department shall give written notice to a license  
16 holder of a license suspension or revocation under this section  
17 and the grounds for the suspension or revocation. The notice  
18 must be sent by certified mail, return receipt requested.

19 (c) After suspending or revoking a license issued under  
20 this chapter, the department shall notify the Department of  
21 Public Safety. The public safety director of the Department of  
22 Public Safety may seize or place under seal all cannabis,  
23 cannabis products, and cannabis-related drug paraphernalia owned  
24 or possessed by the license holder. If the license is revoked,  
25 a disposition may not be made of the seized or sealed cannabis,  
26 cannabis products, or drug paraphernalia until the time for  
27 administrative appeal of the order has elapsed or until all

1 appeals have been concluded. When a revocation order becomes  
2 final, all cannabis, cannabis products, and drug paraphernalia  
3 may be forfeited to the state as provided under Subchapter E,  
4 Chapter 481.

5 (d) Chapter 2001, Government Code, applies to a proceeding  
6 under this section.

7 Sec. 491.157. CRIMINAL RECORD INFORMATION FOR LICENSE  
8 APPLICANTS. (a) In addition to satisfying the other  
9 requirements provided by commission rule under this chapter, an  
10 applicant for a license under this chapter must submit to the  
11 department a complete and legible set of fingerprints, on a form  
12 prescribed by the commission, for the purpose of obtaining  
13 criminal history record information from the Department of  
14 Public Safety and the Federal Bureau of Investigation.

15 (b) The department may deny a license to an applicant who  
16 does not comply with the requirement of Subsection (a).  
17 Issuance of a license by the department is conditioned on the  
18 department obtaining the applicant's criminal history record  
19 information under this section.

20 (c) A person's conviction for an offense other than an  
21 offense under Section 481.122, that involves the delivery or  
22 possession of marihuana, as defined under Section 481.002, does  
23 not disqualify an applicant for licensure under this chapter.

24 SUBCHAPTER E. DUTIES OF LICENSE HOLDERS

25 Sec. 491.201. DUTIES RELATING TO DISPENSING CANNABIS OR  
26 CANNABIS PRODUCTS. Before dispensing cannabis or cannabis  
27 products to an adult, a cannabis establishment must make

1 reasonable efforts to verify that:

2 (1) the person receiving the cannabis or cannabis  
3 product is an adult;

4 (2) the cannabis or cannabis product complies with  
5 department testing and labeling rules; and

6 (3) the amount dispensed is not greater than the  
7 amount of cannabis or cannabis product allowed for personal use  
8 as provided by Section 491.051.

9 Sec. 491.202. DUTIES RELATING TO SECURITY. (a) A license  
10 holder shall ensure that the cultivation, processing, sale, or  
11 display of cannabis, cannabis products, and cannabis-related  
12 drug paraphernalia is not visible from a public place without  
13 the use of optical aids or aircraft.

14 (b) A license holder may not cultivate, process, store, or  
15 sell cannabis, cannabis products, or cannabis-related drug  
16 paraphernalia at a location other than the physical address  
17 approved by the department for the establishment under the  
18 license issued to the establishment under this chapter.

19 (c) A license holder shall adopt reasonable security  
20 measures necessary to restrict access to areas where cannabis or  
21 cannabis products are stored and to prevent theft of cannabis  
22 and cannabis products.

23 Sec. 491.203. LICENSE HOLDER OPERATIONS. (a) A license  
24 holder may not employ or otherwise accept the services of a  
25 person younger than 21 years of age.

26 (b) A cannabis establishment may not sell tobacco  
27 products, as defined by Section 155.001, Tax Code.

1       Sec. 491.204. MONTHLY SALES REPORT. A cannabis  
2 establishment shall monthly submit a report to the comptroller  
3 specifying the amount of cannabis sold, the number of cannabis  
4 products sold, and the amount of money collected in sales by the  
5 establishment during the preceding month.

6                               SUBCHAPTER F. TAXES

7       Sec. 491.251. SALES TAX. Cannabis and cannabis products  
8 are taxable items subject to the sales tax imposed by Chapter  
9 151, Tax Code.

10       Sec. 491.252. CANNABIS TAX IMPOSED. (a) A tax is imposed  
11 on each sale of cannabis or a cannabis product by a cannabis  
12 establishment or cannabis dispensing organization.

13       (b) The rate of the tax is 10 percent of the sales price  
14 of the cannabis or cannabis product.

15       (c) The tax imposed by this section is administered,  
16 collected, and enforced in the same manner as the tax under  
17 Chapter 151 is administered, collected, and enforced.

18       (d) The tax imposed by this section is in addition to any  
19 other tax imposed by law.

20       Sec. 491.253. ALLOCATION OF CANNABIS TAX. (a) The  
21 comptroller shall allocate the net revenue derived from the tax  
22 imposed by this subchapter as follows:

23               (1) 5 percent to the Border Security Enhancement  
24 Fund;

25               (2) 5 percent to the Municipal Security Enhancement  
26 Fund;

27               (3) one percent to the cannabis testing and quality

1 control fund established under Section 491.254;

2 (4) the amount certified to the comptroller by the  
3 commission under Section 491.255 to the fund established under  
4 that section; and

5 (5) the remainder to the Foundation School Program.

6 (b) In determining the local share for each municipality  
7 in which one or more cannabis establishments are located, the  
8 comptroller shall allocate funds under Subsection (a)(1) in  
9 proportion to the number of cannabis establishments located in  
10 each municipality.

11 (c) In determining the local share for each county in  
12 which one or more cannabis establishments are located, the  
13 comptroller shall allocate funds under Subsection (a)(2) in  
14 proportion to the number of cannabis establishments located in  
15 each county.

16 Sec. 491.254. CANNABIS TESTING AND QUALITY CONTROL FUND.

17 (a) The cannabis testing and quality control fund is  
18 established outside the treasury and is administered by the  
19 public safety director of the Department of Public Safety.

20 (b) The public safety director shall use money in the fund  
21 available to enable Department of Public Safety crime laboratory  
22 facilities to test cannabis and cannabis products on request by  
23 the executive director, for the purposes of assisting the  
24 department in monitoring compliance with testing and quality  
25 control requirements imposed on license holders under this  
26 chapter or by commission rules adopted under this chapter.

27 (c) Interest and income from the assets of the trust fund



1 shall be credited to and deposited in the fund.

2 Sec. 491.255. CANNABIS REGULATION FUND. (a) The cannabis  
3 regulation fund is established outside the treasury and is  
4 administered by the commission.

5 (b) The commission shall make money in the fund  
6 available to the department for implementing and administering  
7 this chapter, including researching and addressing any other  
8 mental health, substance use disorder, or addiction issue  
9 relating to the use of cannabis.

10 (c) The commission shall monthly certify to the  
11 comptroller the amount of money the department expended during  
12 the preceding month in the implementation and administration of  
13 this chapter.

14 (d) Interest and income from the assets of the trust fund  
15 shall be credited to and deposited in the fund.

16 SUBCHAPTER G. LOCAL REGULATION

17 Sec. 491.301. PROHIBITED LOCAL REGULATION. A political  
18 subdivision of this state may not enact, adopt, or enforce a  
19 rule, ordinance, order, resolution, or other regulation that  
20 prohibits or unreasonably restricts the cultivation, production,  
21 processing, dispensing, transportation, or possession of  
22 cannabis or cannabis products or the operation of a cannabis  
23 grower, cannabis establishment, cannabis secure transporter, or  
24 cannabis testing facility as authorized by this chapter.

25 Sec. 491.302. PERMISSIBLE LOCAL REGULATION. A political  
26 subdivision may adopt regulations consistent with this chapter  
27 governing the hours of operation, location, manner of conducting

1 business, and number of cannabis growers, cannabis  
2 establishments, or cannabis testing facilities.

3 SUBCHAPTER H. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS  
4 PRODUCT TO MINORS PROHIBITED

5 Sec. 491.351. DEFINITION. In this subchapter, "minor"  
6 means a person younger than 21 years of age.

7 Sec. 491.352. SALE OR DISTRIBUTION OF CANNABIS OR CANNABIS  
8 PRODUCT TO MINORS PROHIBITED; PROOF OF AGE REQUIRED. (a) A  
9 person commits an offense if the person, under the authority of  
10 this chapter:

11 (1) sells, gives, or causes to be sold or given  
12 cannabis or cannabis products to a minor; or

13 (2) sells, gives, or causes to be sold or given  
14 cannabis or cannabis products to another person who intends to  
15 deliver the cannabis or cannabis products to a minor.

16 (b) If an offense under this section occurs in connection  
17 with a sale by an employee of the owner of a cannabis  
18 establishment, the employee is criminally responsible for the  
19 offense and is subject to prosecution.

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

22 (d) It is a defense to prosecution under Subsection (a)(1)  
23 that the person to whom the cannabis or cannabis products were  
24 sold or given presented to the defendant apparently valid proof  
25 of identification.

26 (e) A proof of identification satisfies the requirements  
27 of Subsection (d) if it contains a physical description and

1 photograph consistent with the person's appearance, purports to  
2 establish that the person is 21 years of age or older, and was  
3 issued by a governmental agency. The proof of identification  
4 may include a driver's license issued by this state or another  
5 state, a passport, or an identification card issued by a state  
6 or the federal government.

7 SECTION 2. Section 481.062, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 481.062. EXEMPTIONS. (a) The following persons are  
10 not required to register and may possess a controlled substance  
11 under this chapter [~~without registering with the Federal Drug~~  
12 ~~Enforcement Administration~~]:

13 (1) an agent or employee of a registered  
14 manufacturer, distributor, analyzer, or dispenser of the  
15 controlled substance [~~who is registered with the Federal Drug~~  
16 ~~Enforcement Administration and~~] acting in the usual course of  
17 business or employment;

18 (2) a common or contract carrier, a warehouseman, or  
19 an employee of a carrier or warehouseman whose possession of the  
20 controlled substance is in the usual course of business or  
21 employment;

22 (3) an ultimate user or a person in possession of the  
23 controlled substance under a lawful order of a practitioner or  
24 in lawful possession of the controlled substance if it is listed  
25 in Schedule V;

26 (4) an officer or employee of this state, another  
27 state, a political subdivision of this state or another state,

1 or the United States who is lawfully engaged in the enforcement  
2 of a law relating to a controlled substance or drug or to a  
3 customs law and authorized to possess the controlled substance  
4 in the discharge of the person's official duties;

5 (5) if the substance is tetrahydrocannabinol or one  
6 of its derivatives:

7 (A) a Department of State Health Services  
8 official, a medical school researcher, or a research program  
9 participant possessing the substance as authorized under  
10 Subchapter G; or

11 (B) a practitioner or an ultimate user  
12 possessing the substance as a participant in a federally  
13 approved therapeutic research program that the commissioner has  
14 reviewed and found, in writing, to contain a medically  
15 responsible research protocol; ~~[or]~~

16 (6) a dispensing organization licensed under Chapter  
17 487 that possesses low-THC cannabis;

18 (7) a cannabis grower, cannabis establishment,  
19 cannabis secure transporter, or cannabis testing facility  
20 licensed under Chapter 491 that possesses cannabis or cannabis  
21 products; or

22 (8) a person who possesses cannabis or cannabis  
23 products in accordance with Chapter 491.

24 (b) In this section, "cannabis" and "cannabis product"  
25 have the meanings assigned to those terms by Section 491.001.

26 SECTION 3. Section 481.111, Health and Safety Code, is  
27 amended by adding Subsections (g) and (h) to read as follows:

1       (g) Sections 481.120, 481.121, and 481.125 do not apply to  
2 a person who engages in the acquisition, possession, production,  
3 processing, cultivation, delivery, transportation, or disposal  
4 of a raw material used in or by-product created by the  
5 production or cultivation of cannabis or cannabis products if  
6 the conduct is expressly authorized by Subchapter B, Chapter  
7 491.

8       (h) For purposes of Subsection (g), "cannabis" and  
9 "cannabis product" have the meanings assigned to those terms by  
10 Section 491.001.

11       SECTION 4. Section 481.121, Health and Safety Code, is  
12 amended by adding Subsections (c) and (d) to read as follows:

13       (c) It is an affirmative defense to prosecution under  
14 Subsection (a) that the person possessed the marihuana:

15           (1) as a patient of a physician licensed to practice  
16 medicine in this state pursuant to the recommendation of that  
17 physician for the amelioration of the symptoms or effects of a  
18 medical condition; or

19           (2) as the primary caregiver of a patient described  
20 by Subdivision (1), and the person possessed the marihuana only  
21 with intent to assist the patient.

22       (d) An agency, including a law enforcement agency, of this  
23 state or a political subdivision of this state may not initiate  
24 an administrative, civil, or criminal investigation into a  
25 physician licensed to practice medicine in this state solely on  
26 the ground that the physician:

27           (1) discussed marihuana as a treatment option with a

1 patient of the physician; or

2 (2) made a written or oral statement that, in the  
3 physician's professional opinion, the potential benefits of the  
4 use of marihuana would likely outweigh the health risks for a  
5 particular patient.

6 SECTION 5. Section 481.0764, Health and Safety Code, is  
7 amended by adding Subsection (f) to read as follows:

8 (f) A prescriber, other than a veterinarian, who issues a  
9 prescription for an opioid for acute or chronic pain, on  
10 issuance of the initial prescription and on issuance of the  
11 second prescription for the same substance, shall discuss with  
12 the patient and, if the patient is a minor, the patient's  
13 parent, conservator, or guardian, or other person authorized to  
14 consent to the minor's medical treatment:

15 (1) the risk of addiction associated with the drug  
16 prescribed, including any risk of developing a physical or  
17 psychological dependence on the drug;

18 (2) the risk of taking the drug in a dosage greater  
19 than the dosage prescribed;

20 (3) the danger of taking the drug with  
21 benzodiazepines, alcohol, or other central nervous system  
22 depressants; and

23 (4) the availability of medical cannabis recommended  
24 under Chapter 169A, Occupations Code, and any other alternative  
25 drugs or treatments available for the acute or chronic pain.

26 SECTION 6. Subtitle C, Title 6, Health and Safety Code, is  
27 amended by adding Chapter 488 to read as follows:

1           CHAPTER 488. USE OF CANNABIS FOR MEDICAL PURPOSES

2                   SUBCHAPTER A. GENERAL PROVISIONS

3           Sec. 488.001. DEFINITIONS. In this chapter:

4                   (1) "Department" means the Department of Public  
5 Safety.

6                   (2) "Director" means the public safety director of  
7 the department.

8                   (3) "Dispensing organization" means an organization  
9 licensed by the department to cultivate, process, and dispense  
10 medical cannabis to a patient for whom medical use is  
11 recommended under Chapter 169A, Occupations Code.

12                   (4) "Medical cannabis" and "medical use" have the  
13 meanings assigned by Section 169A.001, Occupations Code.

14                   SUBCHAPTER B. DUTIES OF DEPARTMENT

15           Sec. 488.051. DUTIES OF DEPARTMENT. The department shall  
16 administer this chapter.

17           Sec. 488.052. RULES. (a) The director shall adopt any  
18 rules necessary for the administration and enforcement of this  
19 chapter.

20                   (b) The director shall adopt rules imposing fees under  
21 this chapter in amounts sufficient to cover the cost of  
22 administering this chapter.

23           Sec. 488.053. LICENSING OF DISPENSING ORGANIZATIONS AND  
24 REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS. (a) The  
25 department shall:

26                   (1) issue or renew a license under Subchapter C to  
27 operate as a dispensing organization to each applicant who

1 satisfies the requirements established under this chapter for  
2 licensure as a dispensing organization; and

3 (2) register directors, managers, and employees under  
4 Subchapter D of each dispensing organization.

5 (b) The department shall enforce compliance of license  
6 holders and registrants and shall adopt procedures for  
7 suspending or revoking a license or registration issued under  
8 this chapter and for renewing a license or registration issued  
9 under this chapter.

10 Sec. 488.054. MEDICAL USE REGISTRY. (a) The department  
11 shall establish and maintain a secure online medical use  
12 registry that contains:

13 (1) the name of each physician who registers as the  
14 physician recommending medical use for a patient under Section  
15 169A.003, Occupations Code, and the name and date of birth of  
16 the patient; and

17 (2) the amount of medical cannabis dispensed to each  
18 patient.

19 (b) The department shall ensure the registry:

20 (1) is designed to prevent more than one physician  
21 from registering as the physician recommending medical use for a  
22 single patient;

23 (2) is accessible to law enforcement agencies and  
24 dispensing organizations for the purpose of verifying whether a  
25 patient is one for whom medical use is recommended under Chapter  
26 169A, Occupations Code; and

27 (3) allows a physician recommending medical use under



1 Chapter 169A, Occupations Code, to input safety and efficacy  
2 data derived from the treatment of patients for whom medical use  
3 is recommended.

4 SUBCHAPTER C. LICENSING TO OPERATE AS DISPENSING ORGANIZATION

5 Sec. 488.101. LICENSE REQUIRED. A person may not operate  
6 as a dispensing organization without a license issued by the  
7 department under this subchapter.

8 Sec. 488.102. ELIGIBILITY FOR LICENSE. An applicant for a  
9 license to operate as a dispensing organization is eligible for  
10 the license if:

11 (1) as determined by the department, the applicant  
12 possesses:

13 (A) the technical and technological ability to  
14 cultivate and produce medical cannabis;

15 (B) the ability to secure:

16 (i) the resources and personnel necessary  
17 to operate as a dispensing organization; and

18 (ii) premises reasonably located to allow  
19 patients listed on the medical use registry access to the  
20 organization through existing infrastructure;

21 (C) the ability to maintain accountability for  
22 the raw materials, the finished product, and any by-products  
23 used or produced in the cultivation or production of medical  
24 cannabis to prevent unlawful access to or unlawful diversion or  
25 possession of those materials, products, or by-products; and

26 (D) the financial ability to maintain operations  
27 for not less than two years from the date of application;

1           (2) each director, manager, or employee of the  
2 applicant is registered under Subchapter D; and

3           (3) the applicant satisfies any additional criteria  
4 determined by the director to be necessary to safely implement  
5 this chapter.

6           Sec. 488.103. APPLICATION. (a) A person may apply for an  
7 initial or renewal license under this subchapter by submitting a  
8 form prescribed by the department along with the application fee  
9 in an amount set by the director.

10          (b) A person is not required to pay an application fee if  
11 the person holds a license under Subchapter C, Chapter 487.

12          (c) The application must include the name and address of  
13 the applicant, the name and address of each of the applicant's  
14 directors, managers, and employees, and any other information  
15 considered necessary by the department to determine the  
16 applicant's eligibility for the license.

17           Sec. 488.104. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE.

18          (a) The department shall issue or renew a license under this  
19 subchapter only if:

20           (1) the department determines the applicant meets the  
21 eligibility requirements described by Section 488.102; and

22           (2) issuance or renewal of the license is necessary  
23 to ensure reasonable statewide access to, and the availability  
24 of, medical cannabis for patients registered in the medical use  
25 registry and for whom medical cannabis is recommended under  
26 Chapter 169A, Occupations Code.

27          (b) If the department denies the issuance or renewal of a

1 license under Subsection (a), the applicant is entitled to a  
2 hearing. The department shall give written notice of the  
3 grounds for denial to the applicant at least 30 days before the  
4 date of the hearing.

5 (c) A license issued or renewed under this section expires  
6 on the second anniversary of the date of issuance or renewal, as  
7 applicable.

8 Sec. 488.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An  
9 applicant for the issuance or renewal of a license under this  
10 subchapter shall provide the department with the applicant's  
11 name and the name of each of the applicant's directors,  
12 managers, and employees.

13 (b) Before a dispensing organization under this subchapter  
14 hires a manager or employee for the organization, the license  
15 holder must provide the department with the name of the  
16 prospective manager or employee. The license holder may not  
17 transfer the license to another person before that prospective  
18 applicant and the applicant's directors, managers, and employees  
19 pass a criminal history background check and are registered as  
20 required by Subchapter D.

21 (c) The department shall conduct a criminal history  
22 background check on each individual whose name is provided to  
23 the department under Subsection (a) or (b). The director by  
24 rule shall:

25 (1) determine the manner by which an individual is  
26 required to submit a complete set of fingerprints to the  
27 department for purposes of a criminal history background check

1 under this section; and

2 (2) establish criteria for determining whether an  
3 individual passes the criminal history background check for the  
4 purposes of this section.

5 (d) After conducting a criminal history background check  
6 under this section, the department shall notify the relevant  
7 applicant or organization and the individual who is the subject  
8 of the criminal history background check as to whether the  
9 individual passed the criminal history background check.

10 Sec. 488.106. DUTY TO MAINTAIN ELIGIBILITY. Each license  
11 holder under this subchapter must maintain compliance at all  
12 times with the eligibility requirements described by Section  
13 488.102.

14 Sec. 488.107. DUTIES RELATING TO DISPENSING MEDICAL  
15 CANNABIS. (a) Before dispensing medical cannabis to a person  
16 for whom medical use is recommended under Chapter 169A,  
17 Occupations Code, the dispensing organization must verify that  
18 the person is listed as a patient in the medical use registry.

19 (b) After dispensing medical cannabis to a patient for  
20 whom medical use is recommended under Chapter 169A, Occupations  
21 Code, the dispensing organization shall record in the medical  
22 use registry the form and quantity of the medical cannabis  
23 dispensed and the date and time of dispensation.

24 Sec. 488.108. LABELING. Each product containing medical  
25 cannabis dispensed under this chapter must bear a label that  
26 clearly states the concentrations of tetrahydrocannabinol and  
27 cannabidiol in the product.

1       Sec. 488.109. LICENSE SUSPENSION OR REVOCATION. (a) The  
2 department may at any time suspend or revoke a license issued  
3 under this subchapter if the department determines that the  
4 license holder has not maintained the eligibility requirements  
5 described by Section 488.102 or has failed to comply with a duty  
6 imposed under this chapter.

7       (b) The director shall give written notice to the license  
8 holder of a license suspension or revocation under this section  
9 and the grounds for the suspension or revocation. The notice  
10 must be sent by certified mail, return receipt requested.

11       (c) After suspending or revoking a license issued under  
12 this subchapter, the director may seize or place under seal all  
13 medical cannabis and drug paraphernalia owned or possessed by  
14 the dispensing organization. If the director orders the  
15 revocation of the license, a disposition may not be made of the  
16 seized or sealed medical cannabis or drug paraphernalia until  
17 the time for administrative appeal of the order has elapsed or  
18 until all appeals have been concluded. When a revocation order  
19 becomes final, all medical cannabis and drug paraphernalia may  
20 be forfeited to the state as provided under Subchapter E,  
21 Chapter 481.

22       (d) Chapter 2001, Government Code, applies to a proceeding  
23 under this section.

24       SUBCHAPTER D. REGISTRATION OF CERTAIN INDIVIDUALS

25       Sec. 488.151. REGISTRATION REQUIRED. (a) An individual  
26 who is a director, manager, or employee of a dispensing  
27 organization must apply for and obtain a registration under this

1 section.

2 (b) An applicant for a registration under this section  
3 must:

4 (1) be at least 18 years of age;

5 (2) submit a complete set of fingerprints to the  
6 department in the manner required by department rule; and

7 (3) pass a fingerprint-based criminal history  
8 background check as required by Section 488.105.

9 (c) A registration expires on the second anniversary of  
10 the date of the registration's issuance, unless suspended or  
11 revoked under rules adopted under this chapter.

12 SUBCHAPTER E. DUTIES OF COUNTIES AND MUNICIPALITIES

13 Sec. 488.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT  
14 MEDICAL CANNABIS. A municipality, county, or other political  
15 subdivision may not enact, adopt, or enforce a rule, ordinance,  
16 order, resolution, or other regulation that prohibits the  
17 cultivation, production, dispensing, or possession of medical  
18 cannabis, as authorized by this chapter.

19 SECTION 7. Subtitle B, Title 3, Occupations Code, is  
20 amended by adding Chapter 169A to read as follows:

21 CHAPTER 169A. AUTHORITY TO RECOMMEND MEDICAL CANNABIS TO  
22 CERTAIN PATIENTS WITH ACUTE OR CHRONIC PAIN

23 Sec. 169A.001. DEFINITIONS. In this chapter:

24 (1) "Department" means the Department of Public  
25 Safety.

26 (2) "Medical cannabis" means the plant Cannabis  
27 sativa L., and any part of that plant or any compound,

1 manufacture, salt, derivative, mixture, preparation, resin, or  
2 oil of that plant that contains:

3 (A) not more than 5 percent by weight of  
4 tetrahydrocannabinols; and

5 (B) not less than 10 percent by weight of  
6 cannabidiol.

7 (3) "Medical use" means the ingestion by a means of  
8 administration other than by smoking of a recommended amount of  
9 medical cannabis by a person for whom medical use is recommended  
10 under this chapter.

11 (4) "Smoking" means burning or igniting a substance  
12 and inhaling the smoke.

13 Sec. 169A.002. RECOMMENDATION OF MEDICAL USE. (a) A  
14 physician may recommend medical use in accordance with this  
15 chapter for a patient with acute or chronic pain.

16 (b) A physician who recommends medical use for a patient  
17 must:

18 (1) comply with the registration requirements of  
19 Section 169A.003; and

20 (2) certify to the department that:

21 (A) the patient has acute or chronic pain for  
22 which a prescription of an opioid would be medically  
23 appropriate; and

24 (B) the physician has determined that the risk  
25 of medical use by the patient is reasonable in light of the  
26 potential benefit for the patient and the risks of treating the  
27 pain with an opioid.

1        Sec. 169A.003. RECOMMENDING        PHYSICIAN        REGISTRATION.

2 Before a physician may recommend medical use for a patient under  
3 this chapter, the physician must register as the recommending  
4 physician for that patient in the medical use registry  
5 maintained by the department under Section 488.054, Health and  
6 Safety Code. The physician's registration must indicate:

7            (1) the physician's name; and

8            (2) the patient's name and date of birth.

9        Sec. 169A.004. PATIENT TREATMENT PLAN. A physician who  
10 recommends medical use for a patient under this chapter must  
11 maintain a patient treatment plan that indicates:

12            (1) a plan for monitoring the patient's symptoms; and

13            (2) a plan for monitoring indicators of tolerance or  
14 reaction to medical cannabis.

15        SECTION 8. Section 161.001(c), Family Code, is amended to  
16 read as follows:

17        (c) A court may not make a finding under Subsection (b)  
18 and order termination of the parent-child relationship based on  
19 evidence that the parent:

20            (1) homeschooled the child;

21            (2) is economically disadvantaged;

22            (3) has been charged with a nonviolent misdemeanor  
23 offense other than:

24                    (A) an offense under Title 5, Penal Code;

25                    (B) an offense under Title 6, Penal Code; or

26                    (C) an offense that involves family violence, as  
27 defined by Section 71.004 of this code;



1 (4) provided or administered low-THC cannabis to a  
2 child for whom the low-THC cannabis was prescribed under Chapter  
3 169, Occupations Code; [~~or~~]

4 (5) provided or administered medical cannabis to a  
5 child for whom medical cannabis was recommended under Chapter  
6 169A, Occupations Code; or

7 (6) declined immunization for the child for reasons  
8 of conscience, including a religious belief.

9 SECTION 9. Section 262.116(a), Family Code, is amended to  
10 read as follows:

11 (a) The Department of Family and Protective Services may  
12 not take possession of a child under this subchapter based on  
13 evidence that the parent:

14 (1) homeschooled the child;

15 (2) is economically disadvantaged;

16 (3) has been charged with a nonviolent misdemeanor  
17 offense other than:

18 (A) an offense under Title 5, Penal Code;

19 (B) an offense under Title 6, Penal Code; or

20 (C) an offense that involves family violence, as  
21 defined by Section 71.004 of this code;

22 (4) provided or administered low-THC cannabis to a  
23 child for whom the low-THC cannabis was prescribed under Chapter  
24 169, Occupations Code; [~~or~~]

25 (5) provided or administered medical cannabis to a  
26 child for whom medical cannabis was recommended under Chapter  
27 169A, Occupations Code; or

1           (6) declined immunization for the child for reasons  
2 of conscience, including a religious belief.

3           SECTION 10. Subchapter B, Chapter 164, Occupations Code,  
4 is amended by adding Section 164.0535 to read as follows:

5           Sec. 164.0535. MEDICAL USE OF MARIHUANA. A physician may  
6 not be denied any right or privilege or be subject to any  
7 disciplinary action solely for making a written or oral  
8 statement that, in the physician's professional opinion, the  
9 potential benefits of the use of marihuana would likely outweigh  
10 the health risks for a particular patient.

11          SECTION 11. Chapter 421, Government Code, is amended by  
12 adding Subchapter G and H to read as follows:

13           SUBCHAPTER G. BORDER SECURITY ENHANCEMENT

14           Sec. 421.101. DEFINITION. In this subchapter, "fund"  
15 means the border security enhancement fund.

16           Sec. 421.102. BORDER SECURITY ENHANCEMENT FUND. (a) The  
17 border security enhancement fund is an account in the general  
18 revenue fund to be administered by the governor under this  
19 subchapter and rules adopted by the governor under this  
20 subchapter.

21           (b) The fund consists of appropriations of money made by  
22 the legislature for deposit to the credit of the fund and funds  
23 dedicated from the tax imposed by 491.252, Health and Safety  
24 Code.

25           Sec. 421.103. FUND INTEREST. The comptroller shall  
26 deposit to the credit of the foundation school fund interest and  
27 other earnings made on the balance of the border security

1 enhancement fund.

2 Sec. 421.104. USE OF FUND. The governor shall dispense  
3 money in this fund to local law enforcement authorities in  
4 counties located on an international border or municipalities  
5 located within 50 miles of an international border for the  
6 following purposes:

7 (1) the prevention of human trafficking and entry into  
8 the United States of contraband, including but not limited to  
9 narcotics and other controlled substances;

10 (2) the establishment a program for the creation of  
11 border crossing checkpoints within counties located on the  
12 Texas-Mexico border operated by local law enforcement  
13 authorities; and

14 (3) the pay and salary of peace officers and other  
15 law enforcement personnel.

16 Sec. 421.107. RULES. The governor shall adopt rules  
17 necessary to carry out this subchapter.

18 SUBCHAPTER H. MUNICIPAL SECURITY ENHANCEMENT

19 Sec. 421.101. DEFINITION. In this subchapter, "fund"  
20 means the municipal security enhancement fund.

21 Sec. 421.102. MUNICIPAL SECURITY ENHANCEMENT FUND. (a)  
22 The municipal security enhancement fund is an account in the  
23 general revenue fund to be administered by the governor under  
24 this subchapter and rules adopted by the governor under this  
25 subchapter.

26 (b) The fund consists of appropriations of money made by  
27 the legislature for deposit to the credit of the fund and funds

1 dedicated from the tax imposed by 491.252, Health and Safety  
2 Code.

3 Sec. 421.103. FUND INTEREST. The comptroller shall  
4 deposit to the credit of the foundation school fund interest and  
5 other earnings made on the balance of the municipal security  
6 enhancement fund.

7 Sec. 421.104. USE OF FUND. The governor shall dispense  
8 money in this fund to local law enforcement authorities in  
9 municipalities with a population of at least 1.2 million for the  
10 following purposes:

11 (1) the prevention and investigation of violent  
12 crimes, family violence, and intoxication offenses; and

13 (2) the pay and salary of peace officers and other  
14 law enforcement personnel.

15 Sec. 421.107. RULES. The governor shall adopt rules  
16 necessary to carry out this subchapter.

17 SECTION 12. The change in law made by this Act applies  
18 only to an offense committed on or after the effective date of  
19 this Act. An offense committed before the effective date of  
20 this Act is governed by the law in effect on the date the  
21 offense was committed, and the former law is continued in effect  
22 for that purpose. For purposes of this section, an offense was  
23 committed before the effective date of this Act if any element  
24 of the offense occurred before that date.

25 SECTION 13. (a) Not later than July 1, 2022, the Texas  
26 Commission of Licensing and Regulation shall adopt rules as  
27 required to implement, administer, and enforce Chapter 491,

1 Health and Safety Code, as added by this Act.

2 (b) Not later than November 1, 2022, the Texas Department  
3 of Licensing and Regulation shall begin licensing cannabis  
4 growers, cannabis establishments, cannabis secure transporters,  
5 and cannabis testing facilities in accordance with Chapter 491,  
6 Health and Safety Code, as added by this Act, provided that the  
7 applicants for a license have met all requirements for approval  
8 under Chapter 491, Health and Safety Code, as added by this Act.

9 SECTION 14. Not later than January 1, 2022, the public  
10 safety director of the Department of Public Safety shall adopt  
11 rules as required to implement, administer, and enforce Chapter  
12 488, Health and Safety Code, as added by this Act, including  
13 rules to establish the medical use registry required by that  
14 chapter.

15 SECTION 15. Section 481.0764(f), Health and Safety Code,  
16 as added by this Act, applies only to a prescription issued on  
17 or after January 1, 2022.

18 SECTION 16. This Act takes effect September 1, 2021.