

By: Klick

H.B. No. 892

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the medical use of low-THC cannabis and the regulation  
3 of related organizations and individuals; requiring a dispensing  
4 organization to obtain a license to dispense low-THC cannabis and  
5 any employee of a dispensing organization to obtain a registration;  
6 authorizing fees.

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

8 SECTION 1. Subtitle C, Title 6, Health and Safety Code, is  
9 amended by adding Chapter 487 to read as follows:

10 CHAPTER 487. TEXAS COMPASSIONATE-USE ACT

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 487.001. DEFINITIONS. In this chapter:

13 (1) "Department" means the Department of Public  
14 Safety.

15 (2) "Director" means the public safety director of the  
16 department.

17 (3) "Dispensing organization" means a nonprofit  
18 organization licensed by the department to cultivate, process, and  
19 dispense low-THC cannabis to a patient for whom low-THC cannabis is  
20 prescribed under Chapter 169, Occupations Code.

21 (4) "Low-THC cannabis" has the meaning assigned by  
22 Section 169.001, Occupations Code.

23 (5) "Nonprofit organization" means any organization  
24 exempt from taxation under Section 501(a) of the Internal Revenue

1 Code of 1986 as an organization described in Section 501(c) of that  
2 code.

3 SUBCHAPTER B. DUTIES OF DEPARTMENT

4 Sec. 487.051. DUTIES OF DEPARTMENT. The department shall  
5 administer this chapter.

6 Sec. 487.052. RULES. The director shall adopt any rules  
7 necessary for the administration and enforcement of this chapter,  
8 including rules imposing fees under this chapter in amounts  
9 sufficient to cover the cost of administering this chapter.

10 Sec. 487.053. LICENSING OF DISPENSING ORGANIZATIONS AND  
11 REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS. (a) The  
12 department shall:

13 (1) issue or renew a license to operate as a dispensing  
14 organization to each applicant who satisfies the requirements  
15 established under this chapter; and

16 (2) register directors, managers, and employees of  
17 each dispensing organization.

18 (b) The department shall enforce compliance of licensees  
19 and registrants and shall adopt procedures for suspending or  
20 revoking a license or registration issued under this chapter and  
21 for renewing a license or registration issued under this chapter.

22 Sec. 487.054. COMPASSIONATE-USE REGISTRY. (a) The  
23 department shall establish and maintain a secure online  
24 compassionate-use registry that contains:

25 (1) the name of each physician who registers as the  
26 prescriber for a patient under Section 169.003, Occupations Code,  
27 the name and date of birth of the patient, the dosage prescribed,

1 the means of administration ordered, and the total amount of  
2 low-THC cannabis required to fill the patient's prescription; and

3 (2) a record of each amount of low-THC cannabis  
4 dispensed by a dispensing organization to a patient under a  
5 prescription.

6 (b) The department shall ensure the registry:

7 (1) is designed to:

8 (A) allow a physician qualified to prescribe  
9 low-THC cannabis under Section 169.002, Occupations Code, or  
10 dispensing organization to record information in the registry; and

11 (B) prevent more than one qualified physician  
12 from registering as the prescriber for a single patient; and

13 (2) is accessible to law enforcement agencies and  
14 dispensing organizations for the purpose of verifying whether a  
15 patient is one for whom low-THC cannabis is prescribed and whether  
16 the patient's prescriptions have been filled.

17 SUBCHAPTER C. LICENSE TO OPERATE AS DISPENSING ORGANIZATION

18 Sec. 487.101. LICENSE REQUIRED. A license issued by the  
19 department under this chapter is required to operate a dispensing  
20 organization.

21 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a  
22 license to operate as a dispensing organization is eligible for the  
23 license if:

24 (1) the applicant is a nonprofit organization;

25 (2) as determined by the department, the applicant  
26 possesses:

27 (A) the technical and technological ability to

1 cultivate and produce low-THC cannabis;

2 (B) the ability to secure:

3 (i) the resources and personnel necessary  
4 to operate as a dispensing organization; and

5 (ii) premises reasonably located to allow  
6 patients listed on the compassionate-use registry access to the  
7 organization through existing infrastructure;

8 (C) the ability to maintain accountability for  
9 the raw materials, the finished product, and any by-products used  
10 or produced in the cultivation or production of low-THC cannabis to  
11 prevent unlawful access to or unlawful diversion or possession of  
12 those materials, products, or by-products; and

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

15 (3) each director, manager, or employee of the  
16 applicant is registered under Subchapter D; and

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

20 Sec. 487.103. APPLICATION. (a) A nonprofit organization  
21 may apply for an initial or renewal license to operate as a  
22 dispensing organization by submitting a form prescribed by the  
23 department along with the application fee in an amount set by the  
24 director.

25 (b) The application must include the name and address of the  
26 applicant, the name and address of each director, manager, and  
27 employee, and any other information considered necessary by the

1 department to determine the applicant's eligibility for the  
2 license.

3 Sec. 487.104. ISSUANCE, RENEWAL, OR DENIAL OF LICENSE. (a)  
4 The department shall issue or renew a license to operate as a  
5 dispensing organization only if:

6 (1) the department determines the applicant meets the  
7 eligibility requirements described by Section 487.102; and

8 (2) issuance or renewal of the license is necessary to  
9 ensure reasonable statewide access to, and the availability of,  
10 low-THC cannabis for patients registered in the compassionate-use  
11 registry and for whom low-THC cannabis is prescribed under Chapter  
12 169, Occupations Code.

13 (b) If the department denies the issuance or renewal of a  
14 license under Subsection (a), the applicant is entitled to a  
15 hearing. The department shall give written notice of the grounds  
16 for denial to the applicant at least 30 days before the hearing.

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

20 Sec. 487.105. CRIMINAL HISTORY BACKGROUND CHECK. (a) An  
21 applicant for the issuance or renewal of a license to operate as a  
22 dispensing organization shall provide the department with the name  
23 of each of the applicant's directors, managers, and employees.

24 (b) Before a dispensing organization licensee hires a  
25 manager or employee for the organization, the licensee must provide  
26 the department with the name of the prospective manager or  
27 employee. The licensee may not transfer the license to another

1 nonprofit organization before that prospective organization and  
2 its directors, managers, and employees pass a criminal background  
3 check and are registered as required by Subchapter D.

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

7 (1) determine the manner by which an individual is  
8 required to submit a complete set of fingerprints to the department  
9 for purposes of a criminal history background check under this  
10 section; and

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

14 (d) After conducting a criminal history background check  
15 under this section, the department shall notify the relevant  
16 applicant or organization and the individual who is the subject of  
17 the criminal history background check as to whether the individual  
18 passed the criminal history background check.

19 Sec. 487.106. DUTY TO MAINTAIN ELIGIBILITY. A dispensing  
20 organization must maintain compliance at all times with the  
21 eligibility requirements described by Section 487.102.

22 Sec. 487.107. DUTIES RELATING TO DISPENSING PRESCRIPTION.

23 (a) Before dispensing low-THC cannabis to a person for whom the  
24 low-THC cannabis is prescribed under Chapter 169, Occupations Code,  
25 the dispensing organization must verify that the prescription  
26 presented:

27 (1) is for a person listed as a patient in the

1 compassionate-use registry;

2 (2) matches the entry in the compassionate-use  
3 registry with respect to the total amount of low-THC cannabis  
4 required to fill the prescription; and

5 (3) has not previously been filled by a dispensing  
6 organization as indicated by an entry in the compassionate-use  
7 registry.

8 (b) After dispensing low-THC cannabis to a patient for whom  
9 the low-THC cannabis is prescribed under Chapter 169, Occupations  
10 Code, the dispensing organization shall record in the  
11 compassionate-use registry the form and quantity of low-THC  
12 cannabis dispensed and the date and time of dispensation.

13 Sec. 487.108. LICENSE SUSPENSION OR REVOCATION. (a) The  
14 department may at any time suspend or revoke a license issued under  
15 this chapter if the department determines that the licensee has not  
16 maintained the eligibility requirements described by Section  
17 487.102 or has failed to comply with a duty imposed under this  
18 chapter.

19 (b) The director shall give written notice to the dispensing  
20 organization of a license suspension or revocation under this  
21 section and the grounds for the suspension or revocation. The  
22 notice must be sent by certified mail, return receipt requested.

23 (c) After suspending or revoking a license issued under this  
24 chapter, the director may seize or place under seal all low-THC  
25 cannabis and drug paraphernalia owned or possessed by the  
26 dispensing organization. If the director orders the revocation of  
27 the license, a disposition may not be made of the seized or sealed

1 low-THC cannabis or drug paraphernalia until the time for  
2 administrative appeal of the order has elapsed or until all appeals  
3 have been concluded. When a revocation order becomes final, all  
4 low-THC cannabis and drug paraphernalia may be forfeited to the  
5 state as provided under Subchapter E, Chapter 481.

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

8 SUBCHAPTER D. REGISTRATION OF CERTAIN INDIVIDUALS

9 Sec. 487.151. REGISTRATION REQUIRED. (a) An individual  
10 who is a director, manager, or employee of a dispensing  
11 organization must apply for and obtain a registration under this  
12 section.

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

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

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

17 (3) pass a fingerprint-based criminal history  
18 background check as required by Section 487.105.

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

22 SUBCHAPTER E. DUTIES OF COUNTIES AND MUNICIPALITIES

23 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT  
24 LOW-THC CANNABIS. A municipality, county, or other political  
25 subdivision may not enact, adopt, or enforce a rule, ordinance,  
26 order, resolution, or other regulation that prohibits the  
27 cultivation, production, dispensing, or possession of low-THC



1 cannabis, as authorized by this chapter.

2 SECTION 2. Section 481.062(a), Health and Safety Code, is  
3 amended to read as follows:

4 (a) The following persons are not required to register and  
5 may possess a controlled substance under this chapter:

6 (1) an agent or employee of a registered manufacturer,  
7 distributor, analyzer, or dispenser of the controlled substance  
8 acting in the usual course of business or employment;

9 (2) a common or contract carrier, a warehouseman, or  
10 an employee of a carrier or warehouseman whose possession of the  
11 controlled substance is in the usual course of business or  
12 employment;

13 (3) an ultimate user or a person in possession of the  
14 controlled substance under a lawful order of a practitioner or in  
15 lawful possession of the controlled substance if it is listed in  
16 Schedule V;

17 (4) an officer or employee of this state, another  
18 state, a political subdivision of this state or another state, or  
19 the United States who is lawfully engaged in the enforcement of a  
20 law relating to a controlled substance or drug or to a customs law  
21 and authorized to possess the controlled substance in the discharge  
22 of the person's official duties; ~~or~~

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

25 (A) an [a Texas Department of Health] official of  
26 the Department of State Health Services, a medical school  
27 researcher, or a research program participant possessing the

1 substance as authorized under Subchapter G; or

2 (B) a practitioner or an ultimate user possessing  
3 the substance as a participant in a federally approved therapeutic  
4 research program that the commissioner has reviewed and found, in  
5 writing, to contain a medically responsible research protocol; or

6 (6) a dispensing organization licensed under Chapter  
7 487 that possesses low-THC cannabis.

8 SECTION 3. Section 481.111, Health and Safety Code, is  
9 amended by adding Subsections (e) and (f) to read as follows:

10 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not  
11 apply to a person who engages in the acquisition, possession,  
12 production, cultivation, delivery, or disposal of a raw material  
13 used in or by-product created by the production or cultivation of  
14 low-THC cannabis if the person:

15 (1) for an offense involving possession only of  
16 marihuana or drug paraphernalia, is a patient for whom low-THC  
17 cannabis is prescribed under Chapter 169, Occupations Code, or the  
18 patient's legal guardian, and the person possesses low-THC cannabis  
19 obtained under a valid prescription from a dispensing organization;  
20 or

21 (2) is a director, manager, or employee of a  
22 dispensing organization and the person, solely in performing the  
23 person's regular duties at the organization, acquires, possesses,  
24 produces, cultivates, dispenses, or disposes of:

25 (A) in reasonable quantities, any low-THC  
26 cannabis or raw materials used in or by-products created by the  
27 production or cultivation of low-THC cannabis; or

1           (B) any drug paraphernalia used in the  
2 acquisition, possession, production, cultivation, delivery, or  
3 disposal of low-THC cannabis.

4           (f) For purposes of Subsection (e):

5           (1) "Dispensing organization" has the meaning  
6 assigned by Section 487.001.

7           (2) "Low-THC cannabis" has the meaning assigned by  
8 Section 169.001, Occupations Code.

9           SECTION 4. Subtitle B, Title 3, Occupations Code, is  
10 amended by adding Chapter 169 to read as follows:

11       CHAPTER 169. AUTHORITY TO PRESCRIBE LOW-THC CANNABIS TO CERTAIN  
12                                   PATIENTS FOR COMPASSIONATE USE

13       Sec. 169.001. DEFINITIONS. In this chapter:

14           (1) "Department" means the Department of Public  
15 Safety.

16           (2) "Intractable epilepsy" means a seizure disorder in  
17 which the patient's seizures have been treated by two or more  
18 appropriately chosen and maximally titrated antiepileptic drugs  
19 that have failed to control the seizures.

20           (3) "Low-THC cannabis" means the plant Cannabis sativa  
21 L., and any part of that plant or any compound, manufacture, salt,  
22 derivative, mixture, preparation, resin, or oil of that plant that  
23 contains:

24                           (A) not more than 0.5 percent by weight of  
25 tetrahydrocannabinols; and

26                           (B) not less than 10 percent by weight of  
27 cannabidiol.

1           (4) "Medical use" means the ingestion by a means of  
2 administration other than by smoking of a prescribed amount of  
3 low-THC cannabis by a person for whom low-THC cannabis is  
4 prescribed under this chapter.

5           (5) "Smoking" means burning or igniting a substance  
6 and inhaling the smoke.

7           Sec. 169.002. PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC  
8 CANNABIS. (a) Only a physician qualified as provided by this  
9 section may prescribe low-THC cannabis in accordance with this  
10 chapter.

11           (b) A physician is qualified to prescribe low-THC cannabis  
12 to a patient with intractable epilepsy if the physician:

13                   (1) is licensed under this subtitle;

14                   (2) dedicates a significant portion of clinical  
15 practice to the evaluation and treatment of epilepsy; and

16                   (3) is certified:

17                           (A) by the American Board of Psychiatry and  
18 Neurology in:

19                                   (i) epilepsy; or

20                                   (ii) neurology or neurology with special  
21 qualification in child neurology and is otherwise qualified for the  
22 examination for certification in epilepsy; or

23                           (B) in neurophysiology by:

24                                   (i) the American Board of Psychiatry and  
25 Neurology; or

26                                   (ii) the American Board of Clinical  
27 Neurophysiology.

1       Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. A  
2 physician described by Section 169.002 may prescribe low-THC  
3 cannabis to alleviate a patient's seizures if:

4           (1) the patient is a permanent resident of the state;

5           (2) the physician complies with the registration  
6 requirements of Section 169.004; and

7           (3) the physician certifies to the department that:

8                   (A) the patient is diagnosed with intractable  
9 epilepsy;

10                   (B) the physician has provided two or more  
11 different treatments approved by the United States Food and Drug  
12 Administration and the provided treatments have not alleviated the  
13 patient's seizures;

14                   (C) no other treatment options approved by the  
15 United States Food and Drug Administration are available or  
16 appropriate for the patient;

17                   (D) the physician determines the risk of the  
18 medical use of low-THC cannabis by the patient is reasonable in  
19 light of the potential benefit for the patient; and

20                   (E) if the patient is younger than 18 years of  
21 age:

22                           (i) a second physician qualified to  
23 prescribe low-THC cannabis under Section 169.002 has concurred with  
24 the determination under Paragraph (D); and

25                           (ii) the second physician's concurrence is  
26 recorded in the patient's medical record.

27       Sec. 169.004. LOW-THC CANNABIS PRESCRIBER REGISTRATION.

1 Before a physician qualified to prescribe low-THC cannabis under  
2 Section 169.002 may prescribe or renew a prescription for low-THC  
3 cannabis for a patient under this chapter, the physician must  
4 register as the prescriber for that patient in the  
5 compassionate-use registry maintained by the department under  
6 Section 487.054, Health and Safety Code. The physician's  
7 registration must indicate:

- 8           (1) the physician's name;  
9           (2) the patient's name and date of birth;  
10          (3) the dosage prescribed to the patient;  
11          (4) the means of administration ordered for the  
12 patient; and  
13          (5) the total amount of low-THC cannabis required to  
14 fill the patient's prescription.

15          Sec. 169.005. PATIENT TREATMENT PLAN. A physician  
16 described by Section 169.002 who prescribes low-THC cannabis for a  
17 patient's medical use under this chapter must maintain a patient  
18 treatment plan that indicates:

- 19           (1) the dosage, means of administration, and planned  
20 duration of treatment for the low-THC cannabis;  
21           (2) a plan for monitoring the patient's symptoms; and  
22           (3) a plan for monitoring indicators of tolerance or  
23 reaction to low-THC cannabis.

24          SECTION 5. Section 551.004(a), Occupations Code, is amended  
25 to read as follows:

- 26          (a) This subtitle does not apply to:  
27           (1) a practitioner licensed by the appropriate state

1 board who supplies a patient of the practitioner with a drug in a  
2 manner authorized by state or federal law and who does not operate a  
3 pharmacy for the retailing of prescription drugs;

4 (2) a member of the faculty of a college of pharmacy  
5 recognized by the board who is a pharmacist and who performs the  
6 pharmacist's services only for the benefit of the college;

7 (3) a person who procures prescription drugs for  
8 lawful research, teaching, or testing and not for resale; ~~or~~

9 (4) a home and community support services agency that  
10 possesses a dangerous drug as authorized by Section [142.0061](#),  
11 [142.0062](#), or [142.0063](#), Health and Safety Code; or

12 (5) a dispensing organization, as defined by Section  
13 487.001, Health and Safety Code, that cultivates, processes, and  
14 dispenses low-THC cannabis, as authorized by Chapter 487, Health  
15 and Safety Code, to a patient listed in the compassionate-use  
16 registry established under that chapter.

17 SECTION 6. (a) Not later than December 1, 2015, the public  
18 safety director of the Department of Public Safety shall adopt  
19 rules as required to implement, administer, and enforce Chapter  
20 487, Health and Safety Code, as added by this Act, including rules  
21 to establish the compassionate-use registry required by that  
22 chapter.

23 (b) Not later than January 1, 2018, the Department of Public  
24 Safety shall license at least three dispensing organizations in  
25 accordance with Section 487.053, Health and Safety Code, as added  
26 by this Act, provided at least three applicants for a license to  
27 operate as a dispensing organization have met the requirements for

1 approval provided by Subchapter C, Chapter 487, Health and Safety  
2 Code, as added by this Act.

3 SECTION 7. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2015.