

HEMP AND HEMP-DERIVED CANNABINOID ACT

By: _____ H.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the classification and regulation of hemp and hemp-derived cannabinoids under the Texas Controlled Substances Act; voiding an administrative reclassification; providing for the dismissal of certain pending prosecutions and the expunction of certain criminal records.

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

SECTION 1. Section 481.002(5), Health and Safety Code, is amended to read as follows:

(5) “Controlled substance” means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Section 121.001, Agriculture Code, or a hemp-derived cannabinoid. For purposes of this subdivision, “hemp-derived cannabinoid” means any cannabinoid, including tetrahydrocannabinol in any isomer form, including delta-8, delta-9, delta-10, and tetrahydrocannabinolic acid, whether occurring naturally in the plant *Cannabis sativa* L. or produced through extraction, isomerization, synthesis, or other conversion process, if the product in which the cannabinoid is contained meets the definition of hemp under Section 121.001, Agriculture Code, at the time of testing. The method by which a cannabinoid was extracted, isolated, or chemically converted does not remove a product from this exemption so long as the finished product’s total tetrahydrocannabinol concentration does not exceed the threshold established by Section 121.001, Agriculture Code.

SECTION 2. Section 481.034, Health and Safety Code, is amended by adding Subsection (k) to read as follows:

(k) Notwithstanding Subsection (g) or any other provision of this chapter, the commissioner may not, by rule, notice, order, or any other action, add hemp or a hemp-derived cannabinoid, as those terms are defined by Section 481.002(5), to Schedule I, II, III, IV, or V or to any Penalty Group under this chapter, and may not reinstate, reissue, or otherwise give effect to any prior rule, notice, or schedule modification purporting to do so. A rule, notice, order, or other agency action adopted in violation of this subsection is void and has no legal effect, including for purposes of a criminal prosecution.

SECTION 3. Section 481.103(a), Health and Safety Code, is amended by adding Subdivision (5) to read as follows:

(5) Notwithstanding Subdivision (1) or any other provision of this subsection, Penalty Group 2 does not include hemp or a hemp-derived cannabinoid as defined by Section 481.002(5), regardless of whether the substance would otherwise fall within the description of tetrahydrocannabinols, their isomers, or their salts under Subdivision (1).

SECTION 4. The notice styled “Notice Reinstating Clarifications to the Definitions of ‘Tetrahydrocannabinols’ and ‘Marihuana Extract,’” published by the Texas Department of State Health Services in the Texas Register on July 10, 2026, and made effective July 31, 2026, is void, repealed, and of no force or effect to the extent it applies to hemp or a hemp-derived cannabinoid as defined by Section 481.002(5), Health and Safety Code, as amended by this Act. Not later than the 30th day after the effective date of this Act, the Department of State Health Services shall publish notice of this nullification in the Texas Register.

SECTION 5. Notwithstanding any other law, a person may not be prosecuted, and a pending prosecution shall be dismissed on the motion of the defendant, the attorney representing the state, or the court’s own motion, for an offense under Section 481.113, 481.115, 481.116, or 481.117, Health and Safety Code, to the extent the offense is based on conduct involving a substance that is not a controlled substance under Section 481.002(5), Health and Safety Code, as amended by this Act, regardless of when the conduct occurred or the prosecution commenced.

SECTION 6. Subchapter A, Chapter 55A, Code of Criminal Procedure, is amended by adding Article 55A.008 to read as follows:

Art. 55A.008. CERTAIN OFFENSES INVOLVING HEMP OR A HEMP-DERIVED CANNABINOID. (a) A person to whom this subchapter applies is entitled to the expunction of all records and files relating to an arrest, including any records and files relating to a conviction, deferred adjudication, or other disposition of the offense, if:

(1) the person was arrested for, charged with, convicted of, or placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, for an offense under Section 481.113, 481.115, 481.116, or 481.117, Health and Safety Code; and

(2) the conduct that was the basis of the arrest, charge, or conviction involved a substance that, on the effective date of this article, is not a controlled substance because the substance is hemp or a hemp-derived cannabinoid as defined by Section 481.002(5), Health and Safety Code.

(b) A person is entitled to expunction under this article regardless of whether:

(1) the offense for which the person was arrested, charged, or convicted is a felony or a misdemeanor;

(2) the arrest, charge, prosecution, or conviction occurred before, on, or after the effective date of this article; or

(3) the person has completed the person's sentence, including any term of confinement or community supervision, or has paid all fines and costs imposed.

(c) Notwithstanding any other law prescribing a fee for the filing of a petition for expunction, including Article 102.006, a fee may not be charged to a person seeking expunction under this article.

(d) Not later than the 180th day after the effective date of this article, the Office of Court Administration of the Texas Judicial System, in consultation with the Department of Public Safety and the Texas Department of Criminal Justice, shall use available criminal history record information to identify each arrest, charge, deferred adjudication, and conviction under Section 481.113, 481.115, 481.116, or 481.117, Health and Safety Code, that appears facially eligible for expunction under this article based on the type and quantity of substance involved, and shall provide written notice of eligibility and the applicable procedure for expunction to each identified person at the person's last known address, if reasonably ascertainable, and to the office of the attorney representing the state in the county of the underlying offense.

(e) A district or county attorney, on the attorney's own motion or at the request of a person identified under Subsection (d), may file a petition for expunction on behalf of a person entitled to expunction under this article. This subsection does not limit the person's right to petition under Article 55A.251.

SECTION 7. Article 55A.251(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55A.007 or 55A.008, or a district or county attorney acting under Article 55A.008(e) on behalf of such a person, may file an ex parte petition for expunction in a district court for the county in which the person was arrested.

SECTION 8. This Act does not affect the definition or classification of marihuana under Section 481.002(26), Health and Safety Code, or the penalties for possession of marihuana under Section

481.121, Health and Safety Code, and does not affect the Texas Compassionate Use Program under Chapter 487, Health and Safety Code.

SECTION 9. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

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(b) A person is entitled to expunction under this article regardless of whether:

(1) the offense for which the person was arrested, charged, or convicted is a felony or a misdemeanor;

(2) the arrest, charge, prosecution, or conviction occurred before, on, or after the effective date of this article; or

(3) the person has completed the person's sentence, including any term of confinement or community supervision, or has paid all fines and costs imposed.

(c) Notwithstanding any other law prescribing a fee for the filing of a petition for expunction, including Article 102.006, a fee may not be charged to a person seeking expunction under this article.

(d) Not later than the 180th day after the effective date of this article, the Office of Court Administration of the Texas Judicial System, in consultation with the Department of Public Safety and the Texas Department of Criminal Justice, shall use available criminal history record information to identify each arrest, charge, deferred adjudication, and conviction under Section 481.113, 481.115, 481.116, or 481.117, Health and Safety Code, that appears facially eligible for expunction under this article based on the type and quantity of substance involved, and shall provide written notice of eligibility and the applicable procedure for expunction to each identified person at the person's last known address, if reasonably ascertainable, and to the office of the attorney representing the state in the county of the underlying offense.

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