

BILL ANALYSIS

C.S.H.B. 3703
By: Klick
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2015, the state legislature enacted the Texas Compassionate-Use Act and authorized low-THC cannabis to be prescribed to treat a patient with intractable epilepsy. There have been calls to make certain updates to that act and to make more conditions eligible for treatment using low-THC cannabis. C.S.H.B. 3703 seeks to respond to those calls.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 3703 repeals provisions of the Texas Controlled Substances Act, Health and Safety Code, providing for a therapeutic research program for the supervised use of tetrahydrocannabinols (THC) for medical and research purposes. The bill amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission (HHSC) instead to establish by rule a low-THC cannabis research program to be conducted by one or more health-related institutions, as defined for purposes of the governor's university research initiative, located in Texas. The bill authorizes the executive commissioner, in adopting the rules, to provide the following with respect to the program:

- procedures for a health-related institutions to apply to HHSC for a permit to conduct low-THC cannabis research;
- criteria for granting such a permit and any applicable permit fees;
- limitations concerning the medical conditions for which low-THC cannabis research may be conducted;
- restrictions related to facilities where low-THC cannabis research may be conducted; and
- any other conditions related to low-THC cannabis research that are necessary to comply with federal law regarding cannabis research with human subjects.

The bill requires the executive commissioner to make or assist a health-related institution seeking to conduct research into low-THC cannabis in making all necessary applications to appropriate federal agencies to establish the program in compliance with federal law. HHSC is not required to establish the program if a registration or license required by federal law to operate the program cannot be obtained.

C.S.H.B. 3703 authorizes a dispensing organization licensed to cultivate, process, and dispense low-THC cannabis, as defined in the bill, to a patient under the Texas Compassionate-Use Act to operate more than one dispensing location under a single license issued by the Department of Public Safety (DPS) if DPS determines that more than one dispensing location is necessary to meet patient access needs. The bill requires a dispensing organization to provide to DPS a sample suitable for testing of low-THC cannabis dispensed by the organization on request of DPS.

C.S.H.B. 3703 amends the Occupations Code to remove the requirement for cannabis that contains not more than 0.5 percent by weight of THC to also contain not less than 10 percent by weight of cannabidiol for that cannabis to be considered low-THC for purposes of prescribing low-THC cannabis to certain patients for compassionate use. The bill expands the medical conditions for which a patient may be prescribed low-THC cannabis for compassionate use to include all forms of epilepsy as well as multiple sclerosis and spasticity.

C.S.H.B. 3703 amends the Education Code to prohibit a student for whom low-THC cannabis was prescribed for compassionate use from being subject to a form of discipline solely because the student possessed, used, or was under the influence of the low-THC cannabis.

C.S.H.B. 3703 repeals the following provisions:

- Subchapter G, Chapter 481, Health and Safety Code
- Section 169.001(2), Occupations Code

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3703 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the research program from a medical cannabis research program to a low-THC cannabis research program and changes the entities that may conduct such a program from a medical school to a health-related institution. The substitute provides definitions for "health-related institution" and "low-THC cannabis."

The substitute does not include an increase in the maximum percent weight of THC allowable in cannabis for that cannabis to be considered low-THC cannabis and removes instead the requirement for cannabis that contains a qualifying weight of THC to also contain not less than 10 percent by weight of cannabidiol to be considered low-THC cannabis.

The substitute does not remove the requirement for a physician to dedicate a significant portion of clinical practice to the evaluation and treatment of epilepsy to be qualified to prescribe low-THC cannabis to a patient for medical use but revises that requirement instead to reflect the expanded medical conditions for which low-THC cannabis may be prescribed.

The substitute does not remove the requirement for a second physician to concur with a determination regarding the reasonable risk of the medical use of low-THC cannabis before that low-THC cannabis may be prescribed.