

BILL ANALYSIS

C.S.H.B. 4097
By: Blanco
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that hundreds of thousands of veterans of the wars in Iraq and Afghanistan seek treatment each year for post-traumatic stress disorder (PTSD). It has also been noted that medical cannabis may be effective in assuaging the symptoms of PTSD. C.S.H.B. 4097 seeks to address this issue by providing for the use of medical cannabis by veterans for PTSD and the licensing of associated cultivating or dispensing organizations.

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 and the public safety director of the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4097 amends the Health and Safety Code to make a veteran suffering from post-traumatic stress disorder eligible to purchase medical cannabis from a cultivating or dispensing facility if the veteran is issued a purchaser permit under the bill's provisions. The bill sets out the application requirements for a purchaser permit and requires the Health and Human Services Commission (HHSC) to issue a purchaser permit to a veteran who submits an application if HHSC determines that the veteran is eligible for the permit.

C.S.H.B. 4097 provides for HHSC licensing of a cultivating or dispensing organization that cultivates, processes, or dispenses medical cannabis to a veteran who is issued a purchaser permit under the bill's provisions. The bill sets out the license eligibility and application requirements and provides for a hearing for an applicant whose license is denied. The bill requires a cultivating or dispensing organization, to maintain eligibility for a license, in conjunction with a certain health system, Texas public university, or registered clinical research organization in a partnership required by the bill's provisions to do the following:

- conduct research on a continual basis to determine the potential risks and benefits of medical cannabis as a treatment for post-traumatic stress disorder;
- use the research to provide the optimal ratios of tetrahydrocannabinol and cannabidiol for the post-traumatic stress disorder treatment; and
- make the findings, conclusions, data, and methodology of the research performed available for peer review.

The bill provides for the expiration of a license on the second anniversary of the date of issuance or renewal and for the revocation and suspension of a license. The bill requires an applicant for issuance or renewal of a license to provide the Department of Public Safety (DPS) with the

applicant's name, the name of each person who has a 20 percent equity interest in the applicant, and the names of the applicant's employees or prospective employees.

C.S.H.B. 4097 requires DPS to conduct a criminal history background check on each individual whose name is provided to DPS. The bill requires the public safety director of DPS by rule to determine the manner by which an individual is required to submit a complete set of fingerprints to DPS for purposes of a criminal history background check and to establish criteria for determining whether an individual passes the criminal history background check. The bill provides for the notification of HHSC and the applicant regarding the results of the background check.

C.S.H.B. 4097 requires each license holder to maintain compliance with the eligibility requirements and continue to perform the medical cannabis research required under the bill's provisions. The bill requires the executive commissioner of HHSC by rule to set application and licensing fees in amounts sufficient to cover the cost of administration and enforcement of the bill's provisions relating to medical cannabis for certain veterans. The bill requires HHSC to administer those provisions and requires the executive commissioner, not later than July 1, 2020, to adopt all rules necessary for such administration and to provide copies of applications for prospective cultivating or dispensing organization licensees. The bill requires HHSC to begin accepting applications under those provisions after September 1, 2020, but not later than January 1, 2021.

C.S.H.B. 4097 requires each medical cannabis product of a cultivating or dispensing facility to consistently test within five percent of the stated amount of tetrahydrocannabinol and cannabidiol on the label of the product. Medical cannabis products of a cultivating or dispensing facility must be tested for harmful substances, including microbials, pesticides, and residual solvents. The bill requires the executive commissioner to consult with the Department of Agriculture in adopting rules setting safety standards for medical cannabis made available through a dispensary under the bill's provisions. Medical cannabis to be dispensed under those provisions must be produced using good manufacturing practices, as defined by executive commissioner rule.

C.S.H.B. 4097 authorizes medical cannabis to be dispensed to veterans with a purchaser permit only as a pill, patch, oil, or other derivative form that may be produced with consistent concentrations of tetrahydrocannabinol and cannabidiol and prohibits edible cannabis products from being in shapes or forms appealing to children. Each product containing medical cannabis dispensed under the bill's provisions must bear a label that clearly states the concentrations of tetrahydrocannabinol and cannabidiol in the product.

C.S.H.B. 4097 requires a license holder to annually donate at least five percent of the license holder's net profit to a nonprofit organization that focuses on getting veterans access to treatment for post-traumatic stress disorder. The bill prohibits a cultivating or dispensing facility owned or operated by a license holder from being located within 1,000 feet of a primary or secondary school or day-care center that exists on the date of the license holder's initial application for licensure.

C.S.H.B. 4097 authorizes a licensed organization and an entity in partnership with the organization that possesses medical cannabis for the purpose of research conducted under the bill's provisions to possess a controlled substance under the Texas Controlled Substances Act without registering with the federal Drug Enforcement Administration (DEA). The bill establishes that certain offenses relating to the possession and delivery of marijuana or drug paraphernalia expressly do not apply to a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of medical cannabis and who:

- for an offense involving possession only of marijuana or drug paraphernalia, is a patient who holds a purchaser permit; or

- is a member of the governing authority or a manager or employee of a medical cannabis cultivating or dispensing organization or facility, or is a person associated with an entity in partnership with the organization, and the person, solely in performing the person's duties, acquires, possesses, produces, cultivates, delivers, or disposes of, in reasonable quantities, any medical cannabis or certain raw materials, by-products, or drug paraphernalia.

C.S.H.B. 4097 amends the Occupations Code to make conforming changes.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4097 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 revises the eligibility requirements for a cultivating or dispensing organization license. The substitute does not include provisions specifying the management or operation of such an organization or related facility or setting out minimum application and licensing fees.

The substitute includes provisions requiring a cultivating or dispensing organization in partnership with the applicable entity, in order to maintain license eligibility, to conduct research on a continual basis to determine the potential risks and benefits of medical cannabis as a treatment for post-traumatic stress disorder and providing for use of the research.

The substitute includes an authorization for an entity in partnership with a cultivating or dispensing organization that possesses medical cannabis for the purpose of research conducted under the bill's provisions to possess a controlled substance under the Texas Controlled Substances Act without registering with the DEA.

The substitute establishes that certain offenses relating to the possession and delivery of marihuana or drug paraphernalia expressly do not apply to a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of medical cannabis and who is a person associated with an entity in partnership with a cultivating or dispensing organizing and the person, solely in the performance of the person's duties performing research, acquires, possesses, produces, cultivates, delivers, or disposes of, in reasonable quantities, any medical cannabis or certain raw materials, by-products, or drug paraphernalia.