

**SUBJECT:** Amending provisions related to production and regulation of hemp

**COMMITTEE:** Agriculture & Livestock — committee substitute recommended

**VOTE:** 7 ayes — Cain, Anderson, Bernal, Kitzman, Rosenthal, Thimesch, Wilson  
0 nays  
2 absent — Goodwin, Cody Harris

**WITNESSES:** For — Byron Schirmbeck, Texas Campaign for Liberty; Taylor Kirk, Texas Hemp Coalition (*Registered, but did not testify*: Joy Davis, Texas Farm Bureau; Griffin Lott, Ilissa Nolan, Texas Hemp Coalition; Calvin Tillman)  
Against — None  
On — (*Registered, but did not testify*: Randy Rivera, Texas Department of Agriculture)

**BACKGROUND:** Some have suggested that state law regarding hemp production should be revised to conform with recent changes in federal law.

**DIGEST:** HB 2818 would introduce provisions related to the production and regulation of hemp, in addition to certain enforcement provisions.

**Definitions.** The bill would add "hemp" to the definition of "agricultural commodity" in current statute.

**Hemp research permit.** The bill would require the Department of Agriculture to issue hemp research permits upon request to institutions of higher education, including private or independent institutions, and nonprofit research entities. The permits would be issued upon request after the payment of an application fee consistent with certain other application fees.

The bill would authorize a hemp research permit holder to:

- cultivate and handle varieties of hemp seed and plants that were not certified or approved;
- collect and research feral hemp;
- be exempt to statute prohibiting the cultivation of certain plants.

The bill would not require a hemp research permit holder to obtain:

- a lot crop permit or other permit for each location where hemp is grown; and
- preharvest testing before harvesting plants.

The bill would allow a hemp research permit holder to only sell or transfer hemp to another person if the variety of the hemp was certified or approved and the sale or transfer occurs at least six months after the hemp was harvested.

A hemp research permit holder would also be authorized to conduct research involving hemp in conjunction with a license holder at a facility designated by the license holder for research.

**Shipment and transportation.** The bill would allow the department to adopt by rule different shipping certificates, cargo manifests, or other requirements for the shipment or transportation of a sample of hemp to a testing laboratory or another destination if the sample met certain requirements regarding quantity and was accompanied by a laboratory test. Laboratories that performed testing would be required to abide by testing requirements established in the bill.

**Importing into the state.** The bill would allow for the transportation of immature plants propagated from outside of the state to be obtained and cultivated by a license holder if they were accompanied by certain shipping documentation.

**Local plants.** The bill would allow a license holder to obtain and cultivate

immature plants propagated in this state by another license holder if the plants were accompanied by the required shipping certificate or cargo manifest that showed that the variety of the immature plants was certified or approved. The plants would not be subject to certain preharvest testing. The license holder would be required to maintain certain records regarding crop location.

The bill would allow a license holder to transplant immature plants propagated by the license holder from one of their plots to another one of their plots. In such a case, the department would be required to waive certain requirements for permitting and fees, and would be able to waive other requirements by rule. The department would be required to establish a definition for immature plants.

**Suspension and revocation of license.** The bill would require the department to establish fair and objective standards for determining whether a person whose license was suspended or revoked could use or sell plants harvested.

**Administrative penalty.** The bill would establish an administrative penalty for cultivating hemp without a license. Upon determining that a person has committed a violation, the department would be able to:

- issue a written warning to the person;
- impose an administrative penalty in the amount of \$500; and
- require the person to obtain a license.

A person would commit an offense if the person:

- violated statutory rules for cultivating hemp without a license; and
- received an administrative penalty for a previous violation of statutory rules for cultivating hemp without a license.

The bill would establish this offense as a class C misdemeanor (maximum fine of \$500), except:

- as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the person had previously been convicted one time of an cultivating hemp without a license; and
- aa a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the person had previously been convicted two or more times of the same offense.

The bill also would require the department to enforce negligent violations of certain federal statute and rules. The bill would limit the amount of negligent violations related to cultivation to one per calendar year.

**Language changes.** The bill would amend certain statutes regarding the department's authority to approve hemp seeds by making the following changes:

- replacing instances of "hemp seed" to "hemp seed and plants" or "hemp seeds or plants"; and
- replacing instances of "seed" with "variety" or "plant varieties."

The bill would also require the department to define the term "immature plant."

**Timeline.** The bill would require the Texas Department of Agriculture to provide the United States Department of Agriculture Secretary with any required amendment to the state plan within 120 days of a change to state statute, federal statute, or federal regulation taking effect. The bill also would require the department to incorporate and implement rule changes within 90 days of any changes to state or federal law taking effect. Rules adopted by the department to incorporate or implement federal statute or regulation would not be allowed to be construed as conflicting with the statutes enacted by the bill and certain statutes related to hemp.

The bill would take effect September 1, 2023. The provisions of the bill would only apply to conduct that occurs on or after the effective date.