By: _____ ___ B. No.____

A BILL TO BE ENTITLED

AN ACT

relating to the legalization of marihuana for medicinal purposes and licensing of marihuana-related agencies.

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

CHAPTER 487. Health and Safety Code

SUBCHAPTER A.
GENERAL PROVISIONS

Sec. 487.001. SHORT TITLE. This chapter shall be known and may be cited as the “Texas Medical Marihuana Act” (herein referred to as the “Act”).

Sec. 487.002. LEGISLATIVE DECLARATION. (a) The State of Texas hereby declares that it is necessary to implement rules to ensure that patients suffering from legitimate debilitating medical conditions are able to legally and safely gain access to medical marihuana and to ensure that these patients are not subject to arrest or criminal prosecution for their purchase, possession, transportation and use of medical marihuana in accordance with this Act, and the rules of the state licensing authority.

(b) The Texas Legislature further declares that it is unlawful under state law to cultivate, manufacture, distribute, or sell medical marihuana, except in compliance with the terms, conditions, limitations, and restrictions in this Act or when acting as a primary caregiver in compliance with the terms, conditions, limitations, and restrictions of this Act.

Sec. 487.003. DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(a) "Good Cause", for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance, means:

(1) the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this Act, any rules promulgated pursuant to this Act, or any supplemental local law, rules, or regulations that do not conflict with this Act;

(2) the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;

(3) the licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

(b) "License" means to grant a license or registration pursuant to this Act.

(c) "Licensed Premises" means the premises specified in an application for a license under this Act, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marihuana in accordance with the provisions of this Act.

(d) "Licensee" means a person licensed or registered pursuant to this Act.

(e) "Local Licensing Authority" means an authority designated by municipal or county charter, municipal ordinance, or county resolution.

(f) "Location" means a particular parcel of land that may be identified by an address or other descriptive means.

(g) "Medical Marihuana" means the plant cannabis sativa l., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, extract, oil, resinous extract or oil, or preparation of that plant or its seeds that is grown, sold, purchased, possessed, transported and consumed pursuant to the provisions of this Act, except the term medical marihuana does not include the exclusions listed in section 481.002(26)(b)-(e) of the Texas Health and Safety Code.

(h) "Licensed Wellness Center" means a person licensed pursuant to this Act to operate a business that sells medical marihuana to registered patients or primary caregivers as defined in this Act.

(i) "Medical Marihuana-Infused Product" means a product infused with medical marihuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. these products, when manufactured or sold by a licensed wellness center or a medical marihuana-infused product manufacturer, shall not be considered a food or drug under the Texas Health and Safety Code.

(j) "Medical Marihuana-Infused Products Manufacturer" means a person licensed pursuant to this Act to operate a medical marihuana-infused product premises. A medical marihuana-infused product premises may also include an optional premises.

(k) "Optional Premises" means the premises specified in an application for a licensed wellness center license or medical marihuana-infused product premises with related growing facilities in Texas for which the licensee is authorized to grow and cultivate marihuana for a purpose authorized by this Act.

(l) "Premises Cultivation Operation" means a person licensed pursuant to this Act to operate a business as described in Section 487.023.

(m) "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

(n) "Premises" means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(o) "School" means a public or private preschool or a public or private elementary, middle, junior high, or high school.

(p) "State Licensing Authority" means the Texas Alcohol and Beverage Commission or such other authority that may be created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marihuana in this state, pursuant to this Act.

Sec. 487.004. LIMITED ACCESS AREAS. Subject to the provisions of Section 487.029, a limited access area shall be a building, room, or other contiguous area upon the licensed premises where medical marihuana is grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, under control of the licensee, with limited access to only those persons licensed by the state licensing authority. All areas of ingress or egress to limited access areas shall be clearly identified as such by a sign as designated by the state licensing authority.

Sec. 487.005. LOCAL OPTION. The operation of this Act shall be statewide unless a municipality, county, city, or city and county, by either a majority of the registered electors of the municipality, county, city, or city and county voting at a regular election, or a majority of the members of the governing board for the municipality, county, city, or city and county, vote to prohibit the operation of licensed wellness centers, premises cultivation operations, and medical marihuana-infused products manufacturers' licenses.

SUBCHAPTER B.
STATE LICENSING AUTHORITY

Sec. 487.006. STATE LICENSING AUTHORITY - CREATION. (a) For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marihuana in this state, the state shall utilize the Texas Alcohol and Beverage Commission (“TABC”), unless there is created an alternative state licensing authority by the state.

(b) On July 1, 2013, the state comptroller shall loan to the state licensing authority a sum not to exceed one million dollars. The state licensing authority shall pay back the one million dollar loan to the state comptroller no later than December 31, 2015.

Sec. 487.007. POWERS AND DUTIES OF STATE LICENSING AUTHORITY.

(a) The state licensing authority shall:

(1) grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of medical marihuana as provided in this Act; suspend, fine, restrict, or revoke such licenses upon a violation of this Act, or a rule promulgated pursuant to this Act; and impose any penalty authorized by this Act or any rule promulgated pursuant to this Act. The state licensing authority may take any action with respect to a license pursuant to this Act, in accordance with the procedures established pursuant to this Act;

(2) promulgate such rules and such special rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of medical marihuana and for the enforcement of this Act;

(3) maintain the confidentiality of reports obtained from a licensee showing the sales volume or quantity of medical marihuana sold or any other records that are exempt from public inspection pursuant to state law;

(4) develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the state licensing authority for the administration of this Act or any of the rules promulgated under this Act;

(5) prepare and transmit annually a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority; and

(6) in recognition of the potential medicinal value of medical marihuana, make a request by January 1, 2014, to the federal drug enforcement administration to consider rescheduling, for pharmaceutical purposes, medical marihuana from a Schedule I Controlled Substance to a Schedule II Controlled Substance.

(b) (1) Rules promulgated pursuant to paragraph (2) of subsection (a) of this section may include, but need not be limited to, the following subjects:

(i) compliance with, enforcement of, or violation of any provision of this Act, or any rule issued pursuant to this Act, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this Act;

(ii) specifications of duties of officers and employees of the state licensing authority;

(iii) instructions for local licensing authorities and law enforcement officers;

(iv) requirements for inspections, investigations, searches, seizures, and such additional activities as may become necessary from time to time;

(v) creation of a range of penalties for use by the state licensing authority;

(vi) prohibition of misrepresentation and unfair practices;

(vii) control of informational and product displays on licensed premises;

(viii) development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this Act, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing a card;

(ix) identification of state licensees and their owners, officers, managers, and employees;

(x) security requirements for any premises licensed pursuant to this Act, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the state licensing authority to properly administer and enforce the provisions of this Act, including reporting requirements for changes, alterations, or modifications to the premises;

(xi) regulation of the storage of, warehouses for, and transportation of medical marihuana;

(xii) sanitary requirements for licensed wellness centers, including but not limited to sanitary requirements for the preparation of medical marihuana-infused products;

(xiii) the specification of acceptable forms of picture identification that a licensed wellness center may accept when verifying a sale;

(xiv) labeling standards;

(xv) records to be kept by licensees and the required availability of the records;

(xvi) state licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(xvii) the reporting and transmittal of monthly sales tax payments by licensed wellness centers;

(xviii) authorization for the State Comptroller to have access to licensing information to ensure sales and income tax payment and the effective administration of this Act;

(xix) authorization for the State Comptroller to issue administrative citations and procedures for issuing, appealing and creating a citation violation list and schedule of penalties; and

(xx) such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this Act.

(b) Nothing in this Act shall be construed as delegating to the state licensing authority the power to fix prices for medical marihuana.

(c) Nothing in this Act shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a licensed wellness center, optional premises cultivation operation, or medical marihuana-infused products manufacturer. a law enforcement agency shall have the authority to run a Texas crime information center criminal history record check of a primary caregiver, licensee, or employee of a licensee during an investigation of unlawful activity related to medical marihuana.

SUBCHAPTER C.
STATE AND LOCAL LICENSING

Sec. 487.008. LOCAL LICENSING AUTHORITY – APPLICATIONS – LICENSES. (a) A local licensing authority may issue only the following medical marihuana licenses upon payment of the fee and compliance with all local licensing requirements to be determined by the local licensing authority:

(1) a licensed wellness center license with or without an optional premises;

(2) a premises cultivation license;

(3) a medical marihuana-infused products manufacturing license with or without an optional premises.

(b) A local licensing authority shall not issue a local license within a municipality, city or county, or the unincorporated portion of a county unless the governing body of the municipality, city, or county has adopted an ordinance, or the governing body of the county has adopted a resolution, containing specific standards for license issuance, or if no such ordinance or resolution is adopted prior to July 1, 2014, then a local licensing authority shall consider the minimum licensing requirements specified in this Act when issuing a license.

(c) In addition to all other standards applicable to the issuance of licenses under this Act, the local governing body may adopt additional standards for the issuance of medical marihuana center, premises cultivation, or medical marihuana-infused products manufacturer licenses consistent with the intent of this act that may include, but need not be limited to:

(1) zoning restrictions for the locations of premises for which local licenses are issued;

(2) reasonable restrictions on the hours of operation for the licensed wellness centers; and

(3) any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license.

(d) An application for a license specified in subsection (a) of this section shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require and any forms as the local licensing authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the state licensing authority.

(e) An applicant shall file at the time of application for a local license plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local or state licensing authority may impose additional requirements necessary for the approval of the application.

Sec. 487.009. PUBLIC HEARING NOTICE – POSTING AND PUBLICATION. (a) upon receipt of an application for a local license, except an application for renewal or for transfer of ownership, a local licensing authority may schedule a public hearing upon the application to be held not less than thirty days after the date of the application. If the local licensing authority schedules a hearing for a licensed wellness center application, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local licensing authority shall give public notice by the posting of a sign in a conspicuous place on the licensed wellness center premises for which application has been made and by publication in a newspaper of general circulation in the county in which the licensed wellness center premises are located.

(b) Public notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. The sign shall contain the names and addresses of the officers, directors, or manager of the premises to be licensed.

(c) Public notice given by publication shall contain the same information as that required for signs.

(d) If the building in which medical marihuana is to be sold is in existence at the time of the application, a sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post a sign at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(e) (1) A local licensing authority, or a license applicant with local licensing authority approval, may request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit a concurrent review will continue to independently review the applicant's license application.

(2) When conducting a concurrent application review, the state licensing authority may advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies if the correction is permitted by the state licensing authority, the state licensing authority shall notify the local licensing authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority shall then issue the applicant's state license upon receiving evidence of final approval by the local licensing authority.

(3) All applications submitted for concurrent review shall be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn may allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

Sec. 487.010. RESULTS OF INVESTIGATION – DECISION OF AUTHORITIES. (a) Not less than five days prior to the date of the public hearing authorized in Section 487.009, the local licensing authority shall make known its findings, based on its investigation, in writing to the applicant and other parties of interest. The local licensing authority has authority to refuse to issue a license provided for in this section for good cause, subject to judicial review.

(b) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Act specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical marihuana outlets located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(c) Within thirty days after the public hearing or completion of the application investigation, a local licensing authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The local licensing authority shall send a copy of the decision by certified mail to the applicant at the address shown in the application.

(d) After approval of an application, a local licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of this Act, and then only after the local licensing authority has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(e) After approval of an application for local licensure, the local licensing authority shall notify the state licensing authority of such approval, who shall investigate and either approve or disapprove the application for state licensure.

Sec. 487.011. MEDICAL MARIHUANA LICENSE BOND. (a) Before the state licensing authority issues a state license to an applicant, the applicant shall procure and file with the state licensing authority evidence of a good and sufficient bond in the amount of ten thousand dollars with corporate surety thereon duly licensed to do business with the state, approved as to form by the attorney general of the state, and conditioned that the applicant shall report and pay all sales and use taxes due to the state, or for which the state is the collector or collecting agent, in a timely manner, as provided in law.

(b) A corporate surety shall not be required to make payments to the state claiming under such bond until a final determination of failure to pay taxes due to the state has been made by the state licensing authority or a court of competent jurisdiction.

(c) All bonds required pursuant to this section shall be renewed at such time as the bondholder’s license is renewed. The renewal may be accomplished through a continuation certificate issued by the surety.

Sec. 487.012. STATE LICENSING AUTHORITY – APPLICATION AND ISSUANCE PROCEDURES. (a) Applications for a state license under the provisions of this Act shall be made to the state licensing authority on forms prepared and furnished by the state licensing authority and shall set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a state license should be granted. The information shall include the name and address of the applicant, the names and addresses of the officers, directors, or managers, and all other information deemed necessary by the state licensing authority. Each application shall be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe.

(2) The state licensing authority shall not issue a state license pursuant to this section until the local licensing authority has approved the application for a local license and issued a local license as provided for in Sections 487.008 to 487.011.

(3) Nothing in this Act shall preempt or otherwise impair the power of a local government to enact ordinances or resolutions concerning matters authorized to local governments.

Sec. 487.013. DENIAL OF APPLICATION. (a) The state licensing authority shall deny a state license if the premises on which the applicant proposes to conduct its business do not meet the requirements of this Act or for reasons set forth in Section 487.003(a)(1) or 487.012.

(b) If the state licensing authority denies a state license pursuant to subsection (a) of this section, the applicant shall be entitled to a hearing. The state licensing authority shall provide written notice of the grounds for denial of the state license to the applicant and to the local licensing authority at least fifteen days prior to the hearing.

Sec. 487.014. PERSONS PROHIBITED AS LICENSEES. (a) (1) A license provided by this Act shall not be issued to or held by:

(A) a person until the annual fee therefore has been paid;

(B) a person whose criminal history indicates that he or she has been convicted of a felony, or any crime that involves fraud or perjury;

(C) a corporation, if the criminal history of any of its officers, directors, or managers indicates that the officer, director, or manager has been convicted per 487.014(a)(1)(B);

(D) a licensed physician making patient recommendations;

(E) a person under twenty-one years of age;

(F) a person licensed pursuant to this Act who, during a period of licensure, or who, at the time of application, has failed to:

(i) provide a surety bond or file any tax return with a taxing agency;

(ii) pay any taxes, interest, or penalties due; or

(iii) remedy an outstanding delinquency for taxes owed.

(G) a person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, or use of a controlled substance;

(H) a person who employs another person at a medical marihuana premises who has not passed a criminal history record check;

(I) a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(J) a person whose authority to be a primary caregiver has been revoked by the state health agency;

(K) a person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or

(L) a person who has not been a resident of Texas for at least two years prior to the date of the person's application;

(b) (1) In investigating the qualifications of an applicant or a licensee, the state licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the state licensing authority considers the applicant's criminal history record, the state licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a state license.

(2) As used in paragraph (1) of this subsection (b), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(3) At the time of filing an application for issuance or renewal of a state licensed wellness center license, medical marihuana-infused product manufacturer license, or premises cultivation license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a state license on forms prepared by the state licensing authority. the state licensing authority shall submit the fingerprints to the Texas Bureau of Investigation for the purpose of conducting fingerprint-based criminal history record checks. The Texas Bureau of Investigation shall forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting fingerprint-based criminal history record checks. The state licensing authority may acquire a name-based criminal history record check for an applicant or a license holder who has twice submitted to a fingerprint-based criminal

history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a state license pursuant to this Act. The state licensing authority may verify any of the information an applicant is required to submit.

Sec. 487.015. RESTRICTIONS ON APPLICATIONS FOR NEW LICENSES. (a) The state or a local licensing authority shall not receive or act upon an application for the issuance of a state or local license pursuant to this Act:

(1) until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises;

(2) for a location in an area where the cultivation, manufacture, and sale of medical marihuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(3) (A) if the building in which medical marihuana is to be sold is located within one thousand feet of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility. The provisions of this section shall not affect the renewal or re-issuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality, nor shall the provisions of this section apply to an existing licensed premises on land owned by the state, or apply to a license in effect and actively doing business before said principal campus was constructed. The local licensing authority of a city and county, by rule or regulation, the governing body of a municipality, by ordinance, and the governing body of a county, by resolution, may vary the distance restrictions imposed by this subparagraph (A) for a license or may eliminate one or more types of schools, campuses, or facilities from the application of a distance restriction established by or pursuant to this subparagraph (A).

(B) the distances referred to in this paragraph (3) are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which medical marihuana is to be sold, using a route of direct pedestrian access.

(b) In addition to the requirements of Section 487.010, the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the medical marihuana is to be sold is located within any distance restrictions established by or pursuant to this paragraph (a)(3).

Sec. 487.016. TRANSFER OF OWNERSHIP. (a) A state or local license granted under the provisions of this Act shall not be transferable except as provided in this section, but this section shall not prevent a change of location as provided in Section 487.017(m).

(b) For a transfer of ownership, a license holder shall apply to the state and local licensing authorities on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the state and local licensing authorities shall consider only the requirements of this Act, any rules promulgated by the state licensing authority, and any other local restrictions. The local licensing authority may hold a hearing on the application for transfer of ownership. The local licensing authority shall not hold a hearing pursuant to this subsection (b) until the local licensing authority has posted a notice of hearing in the manner described in 487.009(b) on the licensed wellness center premises for a period of ten days and has provided notice of the hearing to the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the state licensing authority shall be held in compliance with the requirements specified in Section 487.009.

Sec. 487.017. LICENSING IN GENERAL. (a) This Act authorizes a county, municipality, or city and county to prohibit the operation of licensed wellness centers, premises cultivation operations, and medical marihuana-infused products manufacturers' licenses and to enact reasonable regulations or other restrictions applicable to licensed wellness centers, premises cultivation licenses, and medical marihuana-infused products manufacturers' licenses based on local government zoning, health, safety, and public welfare laws for the distribution of medical marihuana that are more restrictive than this Act.

(b) A licensed wellness center, premises cultivation operation, or medical marihuana-infused products manufacturer may not operate until it has been licensed by the local licensing authority and the state licensing authority pursuant to this Act. In connection with a license, the applicant shall provide a complete and accurate list of all owners, officers, and employees who work at, manage, own, or are otherwise associated with the operation and shall provide a complete and accurate application as required by the state licensing authority.

(c) A licensed wellness center, premises cultivation operation, or medical marihuana-infused products manufacturer shall notify the state licensing authority in writing within thirty days after an owner, officer, or employee ceases to work at, manage, own, or otherwise be associated with the operation. The owner, officer, or employee shall surrender his or her identification card to the state licensing authority on or before the date of the notification.

(d) A licensed wellness center, premises cultivation operation, or medical marihuana-infused products manufacturer shall notify the state licensing authority in writing of the name, address, and date of birth of an owner, officer, manager, or employee before the new owner, officer, or employee begins working at, managing, owning, or being associated with the operation. The owner, officer, manager, or employee shall pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation.

(e) A licensed wellness center, premises cultivation operation, or medical marihuana-infused products manufacturer shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marihuana for any purpose except to assist patients, as defined by this Act.

(f) All owners, officers, managers, and employees of a licensed wellness center, premises cultivation operation, or medical marihuana-infused products manufacturer shall be residents of Texas for the past two years from the date of application. a local licensing authority shall not issue a license provided for in this Act until that share of the license application fee due to the state has been received by the State Comptroller. All licenses granted pursuant to this Act shall be valid for a period of two years from the date of issuance unless revoked or suspended pursuant to this Act or the rules promulgated pursuant to this Act.

(g) Before granting a local or state license, the respective licensing authority may consider, except where this Act specifically provides otherwise, the requirements of this Act and any rules promulgated pursuant to this Act, and all other reasonable restrictions that are or may be placed upon the licensee by the licensing authority. With respect to a second or additional license for the same licensee or the same owner of another licensed business pursuant to this Act, each subsequent license shall be required to be comply with the provisions of this Act.

(h) (1) Each license issued under this Act is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license shall be required for each specific business or business entity and each geographical location.

(2) At all times, a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of the premises.

(i) (1) The licenses provided pursuant to this Act shall specify the date of issuance, the period of licensure, the name of the licensee, and the premises or optional premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises or optional premises.

(2) A local licensing authority shall not transfer location of or renew a license to sell medical marihuana until the applicant for the license produces a license issued and granted by the state licensing authority covering the whole period for which a license or license renewal is sought.

(j) In computing any period of time prescribed by this Act, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.

(k) A licensee shall report each material transfer or change of financial interest in the license to the state and local licensing authorities, thirty days prior to any transfer or change pursuant to Section 487.016. A report shall be required for transfers of capital stock of any corporation regardless of size.

(l) Each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities.

(m) (1) A licensee may move his or her permanent location to any other place in the same municipality or city and county for which the license was originally granted, or in the same county if the license was granted for a place outside the corporate limits of a municipality or city and county, but it shall be unlawful to cultivate, manufacture, distribute or sell medical marihuana at any such place until permission to do so is granted by the state and local licensing authorities provided for in this Act.

(n) In permitting a change of location, the state and local licensing authorities shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board or local licensing authority of the municipality, city and county, or county and any such change in location shall be in accordance with all requirements of this Act and rules promulgated pursuant to this Act.

(o) The location of a premises cultivation operation or optional premises shall be a confidential record and shall be exempt from the Texas Public Information Act. State and local licensing authorities shall keep the location of a premises cultivation operation and/or optional premises confidential and shall redact the location from all public records. Notwithstanding any provision of law to the contrary, a state or local licensing agency may share information regarding the location of a premises cultivation operation or optional premises with a peace officer or a law enforcement agency.

(p) Individuals who cultivate marihuana for their own use pursuant to Section 487.032 do not need to apply for or maintain a license.

Sec. 487.018. LICENSE RENEWAL. (a) Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first class mail at the licensee's address of record with the state licensing authority. A licensee shall apply for the renewal of an existing license to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days prior to the date of expiration. A local licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (b) of this section. The state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license provided that the applicant has filed a timely renewal application with the local licensing authority. All renewals filed with the local licensing authority and subsequently approved by the local licensing authority shall next be processed by the state licensing authority. The state or the local licensing authority, in its discretion, subject to the requirements of this subsection (a) and subsection (b) of this section and based upon reasonable grounds, may waive the forty-five-day or thirty-day time requirements set forth in this subsection (a). The local licensing authority may hold a hearing on the application for renewal only if the licensee has had a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this subsection (a) for a medical marihuana center until it has posted a notice of hearing on the licensed wellness center

premises in the manner described in Section 487.009(b) for a period of ten days and provided notice to the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(b) (1) notwithstanding the provisions of subsection (a) of this section, a licensee whose license has been expired for not more than ninety days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars to the local licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until both the state and local licensing authorities have taken final action to approve or deny the licensee's late renewal application unless the state or local licensing authority summarily suspends the license pursuant to this Act, and rules promulgated pursuant to this Act.

(2) The state and local licensing authorities may not accept a late renewal application more than ninety days after the expiration of a licensee's permanent license. A licensee whose permanent license has been expired for more than ninety days shall not cultivate, manufacture, distribute, or sell any medical marihuana until all required licenses have been obtained. Notwithstanding the foregoing, any plants currently being cultivated may continue cultivation until final disposition of the renewal application.

Sec. 487.019. INACTIVE LICENSES. The state or local licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

Sec. 487.020. UNLAWFUL FINANCIAL ASSISTANCE. (a) The state licensing authority, by rule and regulation, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this Act.

(b) A person shall not have an unreported financial interest in a license pursuant to this Act unless that person has undergone a fingerprint-based criminal history record check as provided for by the state licensing authority in its rules; except that this subsection (b) shall not apply to:

(1) banks, savings and loan associations, or

(2) industrial banks supervised and regulated by an agency of the state or federal government, or

(3) to FHA-approved mortgagees, or

(4) licensee’s stockholders, directors, or officers.

(c) This section is intended to prohibit and prevent the control of the outlets for the sale of medical marihuana by a person or party other than the persons licensed pursuant to the provisions of this Act.

SUBCHAPTER D.
LICENSE TYPES

Sec. 487.021. CLASSES OF LICENSES. (a) For the purpose of regulating the cultivation, manufacture, distribution, and sale of medical marihuana, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this Act:

(1) licensed wellness center license with or without an optional premises;

(2) premises cultivation license;

(3) medical marihuana-infused products manufacturing license with or without an optional premises; and

(4) occupational licenses and registrations for owners and managers, and certifications for operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the state licensing authority. The state licensing authority may take any action with respect to a registration pursuant to this Act as it may with respect to a license pursuant to this Act, in accordance with the procedures established pursuant to this Act.

(b) All persons licensed pursuant to this Act shall collect sales tax on all sales made pursuant to the licensing activities.

(c) A state chartered bank or a credit union may loan money to any person licensed pursuant to this Act for the operation of a licensed business.

Sec. 487.022. LICENSED WELLNESS CENTER LICENSE. (a) A medical marihuana center license shall be issued only to a person selling medical marihuana pursuant to the terms and conditions of this Act.

(b) (1) Notwithstanding the provisions of this section, a licensed wellness center licensee may also sell medical marihuana-infused products that are prepackaged and labeled so as to clearly indicate all of the following:

(A) that the product contains medical marihuana;

(B) that the product is manufactured without any regulatory oversight for health, safety, or efficacy; and

(C) that there may be health risks associated with the consumption or use of the product.

(2) A medical marihuana licensee may contract with a medical marihuana-infused products manufacturing licensee for the manufacture of medical marihuana-infused products upon a medical marihuana-infused products manufacturing licensee's licensed premises.

(c) Every licensee selling medical marihuana as provided for in this Act shall sell only medical marihuana either grown in its optional premises licensed pursuant to this Act, or from a licensee of a premises cultivation operation. The provisions of this subsection (c) shall also apply to medical marihuana-infused products.

(d) Notwithstanding the requirements of subsection (c) of this section to the contrary, a licensed wellness center may purchase not more than thirty percent of its total on-hand inventory of medical marihuana from another licensed wellness center in Texas. A licensed wellness center may sell no more than thirty percent of its total on-hand inventory to another Texas licensed wellness center or medical marihuana-infused product manufacturer.

(e) Prior to initiating a sale, the employee of the medical marihuana center making the sale shall verify that the purchaser has a valid registration card issued pursuant to this Act, and a valid picture identification card that matches the name on the registration card.

(f) A licensed wellness center may operate a laboratory to test samples of the medical marihuana to be sold at its premises for quality purposes.

(g) All medical marihuana sold at a licensed medical marihuana center shall be labeled with a list of all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers, that were used in the cultivation and the production of the medical marihuana.

Sec. 487.023. PREMISES CULTIVATION LICENSE. A premises cultivation license may be issued only to a person licensed pursuant to Sections 487.008 and 487.021 who grows and cultivates medical marihuana within Texas for the sole purpose of selling medical marihuana plants to a licensed wellness center or a medical marihuana-infused products manufacturing premises.

Sec. 487.024. MEDICAL MARIHUANA-INFUSED PRODUCTS MANUFACTURING LICENSE. (a) A medical marihuana-infused products manufacturing license may be issued to a person who manufactures medical marihuana-infused products, pursuant to the terms and conditions of this Act.

(b) Medical marihuana-infused products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of medical marihuana-infused products and using equipment that is used exclusively for the manufacture and preparation of medical marihuana-infused products.

(c) A medical marihuana-infused products licensee shall have a written agreement or contract with a licensed wellness center premises cultivation operation, for all medical marihuana purchased from such facility. The medical marihuana-infused products manufacturing licensee may sell its products to any licensed wellness center.

(d) All licensed premises on which medical marihuana-infused products are manufactured shall meet the sanitary standards for medical marihuana-infused product preparation promulgated pursuant to Section 487.007(b)(1)(xii).

(e) The medical marihuana-infused product shall be sealed and conspicuously labeled in compliance with this Act and any rules promulgated pursuant to this Act.

(f) Medical marihuana-infused products may not be consumed on a premises licensed pursuant to this Act.

(g) Notwithstanding any other provision of state law, sales of medical marihuana-infused products shall not be exempt from state or local sales tax.

(h) A medical marihuana-infused products licensee that has a premises cultivation license shall not sell any of the medical marihuana that it cultivates.

SUBCHAPTER E.
FEES/TAXES

Sec. 487.025. MEDICAL MARIHUANA LICENSE CASH FUND. (a) The state licensing authority shall establish fees for processing the following types of applications, licenses, notices, or reports required to be submitted to the state licensing authority:

(1) applications for licenses listed in Section 487.021 and rules promulgated pursuant to that section;

(2) applications to change location pursuant to Section 487.017 and rules promulgated pursuant to that section;

(3) applications for transfer of ownership pursuant to Section 487.017 and rules promulgated pursuant to that section;

(4) license renewal and expired license renewal applications pursuant to Section 487.018; and

(5) licenses as listed in Section 487.021.

(b) The state licensing authority may charge applicants licensed under this Act a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, managers, or employees.

(c) At least annually, the state licensing authority shall review the amounts of the fees and, if necessary, adjust the amounts to reflect the direct and indirect costs of the state licensing authority.

(d) The state licensing authority shall establish the state-wide sales tax on the sales of medical marihuana, but such tax amounts shall not exceed ten percent of the gross sale price.

Sec. 487.026. LOCAL LICENSE FEES. (a) Each application for a local license provided for in this Act filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority.

(b) License fees as determined by the local licensing authority shall be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located in advance of the approval, denial, or renewal of the license.

SUBCHAPTER F.
DISCIPLINARY ACTIONS

Sec. 487.028. SUSPENSION – REVOCATION – FINES. (a) In addition to any other sanctions prescribed by this Act or rules promulgated pursuant to this Act, the state licensing authority or a local licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke a license issued by the respective authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this Act, or any of the rules promulgated pursuant to this Act, or of any of the terms, conditions, or provisions of the license issued by the state or local licensing authority. The state licensing authority or a local licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing that the state or local licensing authority is authorized to conduct.

(b) The state or local licensing authority shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing pursuant to subsection (a) of this section, by mailing the same in writing to the licensee at the address contained in the license. Except in the case of a summary suspension, a suspension shall not be for a longer period than six months. If a license is suspended or revoked, a part of the fees paid therefore shall not be returned to the licensee. Each patient registered with a licensed wellness center that has had its license summarily suspended may immediately transfer his or her primary center to another licensed wellness center.

(c) (1) Whenever a decision of the state licensing authority or a local licensing authority suspending a license for fourteen days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state or local licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the state or local licensing authority is satisfied that:

(A) the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(B) the books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and

(C) the licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years

immediately preceding the date of the motion or complaint that resulted in a final decision to suspend the license or permit.

(2) The fine accepted shall be not less than five hundred dollars nor more than one hundred thousand dollars.

(3) payment of a fine pursuant to the provisions of this subsection (c) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the state or local licensing authority, whichever is appropriate.

(d) Upon payment of the fine pursuant to subsection (c) of this section, the state or local licensing authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a local licensing authority, the governing body of the authority shall cause the moneys to be paid into the general fund of the local licensing authority.

(e) In connection with a petition pursuant to subsection (c) of this section, the authority of the state or local licensing authority is limited to the granting of such stays as are necessary for the authority to complete its investigation and make its findings and, if the authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the state or local licensing authority does not make the findings required in paragraph (1) of subsection (c) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the state or local licensing authority.

SUBCHAPTER G.
INSPECTION OF BOOKS AND RECORDS

Sec. 487.029. INSPECTION PROCEDURES. (a) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this Act and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

(b) The licensed premises, including any places of storage where medical marihuana is grown, stored, cultivated, sold, or dispensed, shall be subject to inspection by the state or local licensing authorities and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and,

upon request by authorized representatives of the state or local licensing authority, the licensee shall open the area for inspection.

(c) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

SUBCHAPTER H.
JUDICIAL REVIEW

Sec. 487.030. JUDICIAL REVIEW. Decisions by the state licensing authority or a local licensing authority shall be subject to judicial review.

SUBCHAPTER I.
UNLAWFUL ACTS – ENFORCEMENT

Sec. 487.031. UNLAWFUL ACTS – EXCEPTIONS. (a) Except as otherwise provided in this Act, it is unlawful for a person:

(1) to consume medical marihuana in a licensed wellness center, and it shall be unlawful for a licensed wellness center to allow medical marihuana to be consumed upon its licensed premises;

(2) with knowledge, to permit or fail to prevent the use of his or her registry identification by any other person for the unlawful purchasing of medical marihuana; or

(3) to continue operating a business for the purpose of cultivation, manufacture, or sale of medical marihuana or medical marihuana-infused products without filing the forms and paying the fee as described in this Act;

(4) to continue operating a business for the purpose of cultivation, manufacture, or sale of medical marihuana or medical marihuana-infused products without satisfying the conditions of this Act.

(b) It is unlawful for a person to buy, sell, transfer, give away, or acquire medical marihuana except as allowed pursuant to this Act.

(c) It is unlawful for a person licensed pursuant to this Act:

(1) to be within a limited-access area unless the person's license badge is displayed as required by this Act, except as provided in Section 487.029;

(2) to fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous locations as required by this Act;

(3) to fail to report a transfer required by Section 487.017(11); or

(4) to fail to report the name of or a change in managers as required by Section 487.017(l);

(d) It is unlawful for any person licensed to sell medical marihuana pursuant to this Act:

(1) to display any signs that are inconsistent with local laws or regulations;

(2) to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors;

(3) to provide public premises, or any portion thereof, for the purpose of consumption of medical marihuana in any form;

(4) (A) to sell medical marihuana to a person not licensed pursuant to this Act or to a person not able to produce a valid patient registry identification card. Notwithstanding any provision in this subparagraph (A) to the contrary, a person under eighteen years of age shall not be employed to sell or dispense medical marihuana at a licensed wellness center or grow or cultivate medical marihuana at a premises cultivation operation.

(B) If a licensee or a licensee's employee has reasonable cause to believe that a person is exhibiting a fraudulent patient registry identification card in an attempt to obtain medical marihuana, the licensee or employee shall be authorized to confiscate the fraudulent patient registry identification card, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the local law enforcement agency. The failure to confiscate the fraudulent patient registry identification card or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense.

(5) to possess more than six medical marihuana plants and two ounces of medical marihuana for each patient who has registered the center as his or her primary center pursuant to this Act; except that a medical marihuana center may have an amount that exceeds the six-plant and two-ounce product per patient limit if the center sells to patients that are authorized to have more than six plants and two ounces of product. In the case of a patient authorized to exceed the six-plant and two-ounce limit, the center shall obtain documentation from the patient's physician that the patient needs more than six plants and two ounces of product.

(6) to offer for sale or solicit an order for medical marihuana in person except within the licensed premises;

(7) to have in possession or upon the licensed premises any medical marihuana, the sale of which is not permitted by the license;

(8) to buy medical marihuana from a person not licensed to sell as provided by this Act;

(9) to sell medical marihuana except in the permanent location specifically designated in the license for sale;

(10) to have on the licensed premises any medical marihuana or marihuana paraphernalia that shows evidence of the medical marihuana having been consumed or partially consumed;

(11) to require a licensed wellness center or licensed wellness center with an optional premises cultivation license to make delivery to any premises other than the specific licensed premises where the medical marihuana is to be sold; or

(12) to sell, serve, or distribute medical marihuana at any time other than between the hours of 8:00 a.m. and 10:00 p.m., Monday through Sunday.

(e) Except as provided in Sections 487.022, 487.023, and 487.024, it is unlawful for a licensed wellness center, medical marihuana-infused products manufacturing operation with an optional premises, or licensed wellness center with an optional premises to sell, deliver, or cause to be delivered to a licensee any medical marihuana not grown upon its licensed premises or from a licensed premises cultivation operation, or for a licensee or licensed wellness center with an optional premises or medical marihuana-infused products manufacturing operation with an optional premises to sell, possess, or permit the sale of medical marihuana not grown upon its licensed premises or from a licensed premises cultivation operation. a violation of the provisions of this subsection (e) by a licensee shall be grounds for the immediate revocation of the license granted under this Act.

(f) A person who commits any acts that are unlawful pursuant to this section commits a Class A misdemeanor.

SUBCHAPTER J.
MEDICAL MARIHUANA PROGRAM

Sec. 487.032. MEDICAL MARIHUANA PROGRAM - POWERS AND DUTIES OF THE STATE LICENSING AUTHORITY.

(a) Legislative Declaration.

(1) The Texas Legislature hereby declares that it is necessary to implement rules to ensure that patients suffering from legitimate debilitating medical conditions are able to legally and safely gain access to medical marihuana and to ensure that these patients:

(A) are not subject to arrest or criminal prosecution for their purchase, possession, transportation and use of medical marihuana in accordance with this Act, and the rules of the state licensing authority.

(2) The Texas Legislature hereby declares that it is necessary to implement rules to prevent persons who do not suffer from legitimate debilitating medical conditions from using this Act as a means to sell, acquire, possess, produce, use, or transport marihuana in violation of state and federal laws.

(b) Definitions. In addition to the definitions set forth in Section 487.003, the following definitions apply to this section unless context otherwise requires:

(1) “Debilitating medical conditions” shall mean:

(A) cancer, Human Immunodeficiency Virus (HIV), AIDS, Multiple Sclerosis, Epilepsy or other seizure disorder, or spasticity disorders; or

(B) intractable pain, unrelieved by standard medical treatments and medications; or

(C) glaucoma, either acute or chronic, unrelieved by standard treatments and medications; or

(D) Crohn's Disease with debilitating symptoms unrelieved by standard treatments or medications; or

(E) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(F) anxiety disorders, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(G) posttraumatic stress disorder; or

(H) any other medical disorder, condition, or other diagnosis for which a physician or the department of health finds the patient may benefit from the medicinal use of marihuana.

(2) "Patient" shall mean a person who:

(A) is a patient of a physician licensed on the State of Texas;

(B) has been diagnosed by that physician as having a terminal or debilitating medical condition as defined in Section 487.032(b)(1);

(C) is a resident of the State of Texas at the time of such diagnosis;

(D) has been advised by that physician about the risks and benefits of the medical use of marihuana; and

(E) has received a written recommendation by that physician for the medical use of marihuana.

(3) "Primary caregiver" means a natural person, other than the patient or the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

(c) Rule-Making. (1) The department shall, pursuant to this Act, promulgate rules of administration concerning the implementation of the medical marihuana program that specifically govern the following:

(A) the establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card;

(B) the development by the department of an application form and making such form available to residents of this state seeking to be listed on the

confidential registry of patients who are entitled to receive a registry identification card;

(C) the verification by the department of medical information concerning patients who have applied for a confidential registry card;

(D) the issuance and form of confidential registry identification cards;

(E) communications with law enforcement officials about confidential registry identification cards that have been suspended where a patient is no longer diagnosed as having a debilitating medical condition; and

(F) the manner in which the department may consider adding debilitating medical conditions to the list of debilitating medical conditions; and

(G) a waiver process to allow a homebound patient who is on the registry to have a primary caregiver transport the patient's medical marihuana from a licensed wellness center to the patient.

(2) The state licensing authority may promulgate rules regarding the following:

(A) what constitutes "significant responsibility for managing the well-being of a patient"; except that the Act of supplying medical marihuana or marihuana paraphernalia, by itself, is insufficient to constitute "significant responsibility for managing the well-being of a patient";

(B) the development of a form for a primary caregiver to use in applying to the registry, which form shall require, at a minimum, that the applicant provide his or her full name, home address, date of birth, and an attestation that the applicant has a significant responsibility for managing the well-being of the patient for whom he or she is designated as the primary caregiver and that he or she understands and will abide by this Act, and the rules promulgated by the state licensing authority pursuant to this Act;

(C) the development of a form that constitutes "written documentation", as defined and used in this Act, which form a physician shall use when making a medical marihuana recommendation for a patient; and

(D) the grounds and procedure for a patient to change his or her designated primary caregiver.

(d) Primary Caregivers. (1) A primary caregiver may not delegate to any other person his or her authority to provide medical marihuana to a patient nor may a primary caregiver engage others to assist in providing medical marihuana to a patient.

(2) A primary caregiver may not cultivate medical marihuana, unless the primary caregiver is also a licensee.

(3) Only a licensed wellness center with an optional premises, a medical marihuana-infused products manufacturing operation with an optional premises, or a licensed premises cultivation operation may cultivate or provide marihuana and only for medical use.

(4) A primary caregiver shall provide to a law enforcement agency, upon inquiry, the registry identification card number of each of his or her patients. The state licensing authority shall maintain a registry of this information and make it available twenty-four hours per day and seven days a week to law enforcement for verification purposes. upon inquiry by a law enforcement officer as to an individual's status as a patient or primary caregiver, the state licensing authority shall check the registry. If the individual is not registered as a patient or primary caregiver, the state licensing authority may provide that response to law enforcement. If the person is a registered patient or primary caregiver, the state licensing authority may not release information unless consistent with this Act. The state licensing authority may promulgate rules to provide for the efficient administration of this paragraph (4).

(e) Patient – Primary Caregiver Relationship. (1) A person shall be listed as a primary caregiver for no more than one patient on the medical marihuana program registry at any given time; except that the state licensing authority may allow a primary caregiver to serve more than one patient in exceptional circumstances. In determining whether exceptional circumstances exist, the state health agency may consider the proximity of licensed wellness centers to the patient. a primary caregiver shall maintain a list of his or her patients including the registry identification card number of each patient at all times.

(2) A patient shall have only one primary caregiver at any given time.

(3) A patient who has designated a primary caregiver for himself or herself may not be designated as a primary caregiver for another patient.

(4) A primary caregiver may only charge a patient a reasonable surcharge for caregiver services.

(5) The state licensing authority shall maintain a secure and confidential registry of available primary caregivers for those patients who are unable to secure the services of a primary caregiver.

(f) Registry Identification Card Required – Denial – Revocation – Renewal. (1) To be considered in compliance with the provisions of this Act, and the rules of the state licensing authority, a patient or primary caregiver shall have his or her registry identification card in his or her possession at all times that he or she is in possession of any form of medical marihuana and produce the same upon request of a law enforcement officer to demonstrate that the patient or primary caregiver is not in violation of the law a person who violates this Act, this section, or the rules promulgated by the state licensing authority may be subject to criminal prosecution.

(2) The state licensing authority may deny a patient's or primary caregiver's application for a registry identification card or revoke the card if the state licensing authority determines that the physician who diagnosed the patient's debilitating medical condition, the patient, or the primary caregiver violated this Act, or the rules promulgated by the state licensing authority pursuant to this section; except that, when a physician's violation is the basis for adverse action, the state licensing authority may only deny or revoke a patient's application or registry identification card when the physician's violation is related to the issuance of a medical marihuana recommendation.

(3) A patient or primary caregiver registry identification card shall be valid for one year and shall contain a unique identification number. It shall be the responsibility of the patient or primary caregiver to apply to renew his or her registry identification card prior to the date on which the card expires. The state licensing authority shall develop a form for a patient or primary caregiver to use in renewing his or her registry identification card.

(4) If the state licensing authority grants a patient a waiver to allow a primary caregiver to transport the patient's medical marihuana from a licensed wellness center to the patient, the state licensing authority shall designate the waiver on the patient's registry identification card.

(5) A homebound patient who receives a waiver from the state licensing authority to allow a primary caregiver to transport the patient's medical marihuana to the patient from a medical marihuana center shall provide the primary caregiver with the patient's registry identification card, which the primary caregiver shall carry when the primary caregiver is transporting the medical marihuana. A licensed wellness center may provide the medical marihuana to the primary caregiver for transport to the patient if the primary caregiver produces the patient's registry identification card.

(g) Use of Medical Marihuana. (1) The use of medical marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this Act.

(2) A patient or primary caregiver shall not be subject to arrest or criminal prosecution for their purchase, possession, transportation and use of medical marihuana in accordance with this Act, and the rules of the state licensing authority. The medical marihuana purchased, possessed, or transported by a patient or caregiver shall not be subject to confiscation or seizure when the patient or primary caregiver are in compliance with this Act, and the rules of the state licensing authority.

(3) A patient or primary caregiver shall not:

(A) engage in the medical use of marihuana in a way that endangers the health and well-being of a person;

(B) engage in the medical use of marihuana in plain view of or in a place open to the general public;

(C) undertake any task while under the influence of medical marihuana, when doing so would constitute negligence or professional malpractice;
(D) possess medical marihuana or otherwise engage in the use of medical marihuana in or on the grounds of a school or in a school bus;

(E) engage in the use of medical marihuana while:

(i) in a correctional facility or a community corrections facility;

(ii) subject to a sentence to incarceration; or

(iii) in a vehicle, aircraft, or motorboat;

(iv) operating, navigating, or maintain actual physical control of any vehicle, aircraft, or motorboat while under the influence of medical marihuana; or

(v) use medical marihuana if the person does not have a debilitating medical condition as diagnosed by the person's physician in the course of a bona fide physician-patient relationship and for which the physician has recommended the use of medical marihuana.

(h) Limit on Individual Cultivation of Medical Marihuana. (1) Individuals who maintain a valid prescription for medical marihuana may cultivate and possess up to and including six medical marihuana plants and two ounces of medical marihuana. All medical marihuana and byproduct(s) from such plants may only be consumed by the individual grower, and may not be sold or given to other individuals or entities. Such plants may only be cultivated at the private residence of the individual grower. Nothing in this section prohibits individual users from infusing their individually cultivated marihuana products into other products for personal use.

(i) Fees. The department state licensing authority may collect fees from patients who, pursuant to this Act, apply to the medical marihuana program established by such section for a marihuana registry identification card for the purpose of offsetting the department's state licensing authority's direct and indirect costs of administering the program. The amount of such the fees shall be set by rule of the state licensing authority. The amount of the fees set pursuant to this section shall reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this Act.

SUBCHAPTER K.
PHYSICIANS EXCEPTED FROM STATE'S CRIMINAL LAWS

Sec. 487.033. Physicians Excepted from State's Criminal Laws. (a) A physician licensed shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

(1) advising a patient about the risks and benefits of the medical use of marihuana or determining that the patient may benefit from the medical use of marihuana where such use is within a professional standard of care or in the individual physician's medical judgment; or

(2) providing a patient with valid recommendation for the use of medical marihuana, based upon the physician's assessment of the patient's medical history and current medical condition.

SUBCHAPTER L.
CRIMINAL PENALTIES FOR INDIVIDUAL USERS

Sec. 487.034 Driving Under the Influence – The Law Against DUI & DWI. The provisions of this Act will not impact Texas Penal Code and Health & Safety Code provisions relating to driving while intoxicated.

SUBCHAPTER M.
487.035 AMENDMENTS. The following laws are amended:

(a) Section 481.125, Chapter 481, Health & Safety Code, is amended by adding Section 481.125(g) to read as follows:

Sec. 481.125(g). This section does not apply to drug paraphernalia related to the growth, cultivation, development, sale, possession, and use of marihuana or hash.

(b) Section 159.001, Chapter 159, Texas Tax Code, is amended as follows:

Sec. 159.001. DEFINITIONS. In this chapter:

(1) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Counterfeit substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(3) "Dealer" means a person who in violation of the law of this state imports into this state or manufactures, produces, acquires, or possesses in this state:

(A) seven grams or more of a taxable substance consisting of or containing a controlled substance, counterfeit substance, or simulated controlled substance;

(B) fifty dosage units or more of a taxable substance not commonly sold by weight, consisting of or containing a controlled substance, counterfeit substance, or simulated controlled substance; or

(C) more than four ounces of a taxable substance consisting of or containing marihuana, when the dealer is not authorized to do so pursuant to Chapter 487 of the Texas Health & Safety Code.

(4) "Marihuana" has the meaning assigned by Section 481.002, Health and Safety Code.

(5) "Simulated controlled substance" has the meaning assigned by Section 482.001, Health and Safety Code.

(6) "Tax payment certificate" means a stamp or other device provided by the comptroller under Section 159.003 of this code for use under this chapter.

(7) "Taxable substance" means a controlled substance, a counterfeit substance, a simulated controlled substance, or marihuana, or a mixture of any materials that

contains a controlled substance, counterfeit substance, simulated controlled substance, or marihuana.

(8) "Dosage unit" means a tablet, pill, capsule, vial, ampule, or other identifiable or separated unit designed or packaged to be used, taken, or ingested at one time.

(c) Section 481.121, Chapter 481, Health & Safety Code, is amended as follows:

(a) Except as authorized by Chapter 487 of the Health & Safety Code, a person commits an offense if the person knowingly or intentionally possesses a usable quantity of marihuana.

(b) An offense under Subsection (a) is:

(1) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less;

(2) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;

(3) a state jail felony if the amount of marihuana possessed is five pounds or less but more than four ounces;

(4) a felony of the third degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds;

(5) a felony of the second degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds; and

(6) punishable by imprisonment in the institutional division of the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is more than 2,000 pounds.

SUBCHAPTER N.
MISCELLANEOUS.

Sec. 487.036 Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 487.037. Safety Clause. The General Assembly hereby finds, determines, and declares that this Act is necessary for the immediate preservation of the public peace, health, and safety.

Sec. 487.038 Effective Date. This Act takes effect immediate if it receive 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 September 1, 2013.