

AGRICULTURE CODE

TITLE 5. PRODUCTION, PROCESSING, AND SALE OF HORTICULTURAL PRODUCTS

SUBTITLE F. HEMP

CHAPTER 122. CULTIVATION OF HEMP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 122.001. DEFINITIONS. In this chapter:

- (1) "Cultivate" means to plant, irrigate, cultivate, or harvest a hemp plant.
- (2) "Governing person" has the meaning assigned by Section 1.002, Business Organizations Code.
- (3) "Handle" means to possess or store a hemp plant:
 - (A) on premises owned, operated, or controlled by a license holder for any period of time; or
 - (B) in a vehicle for any period of time other than during the actual transport of the plant from a premises owned, operated, or controlled by a license holder to:
 - (i) a premises owned, operated, or controlled by another license holder; or
 - (ii) a person licensed under Chapter 443, Health and Safety Code.
- (4) "Hemp" has the meaning assigned by Section 121.001.
- (5) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.
- (6) "License" means a hemp grower's license issued under Subchapter C.
- (7) "License holder" means an individual or business entity holding a license.
- (8) "Nonconsumable hemp product" means a product that contains hemp, other than a consumable hemp product as defined by Section 443.001, Health and Safety Code. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, and plastics derived from hemp.
- (9) "Plot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety

or cultivar of hemp throughout the area.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.002. LOCAL REGULATION PROHIBITED. A municipality, county, or other political subdivision of this state may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, handling, transportation, or sale of hemp as authorized by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.003. STATE HEMP PRODUCTION ACCOUNT. (a) The state hemp production account is an account in the general revenue fund administered by the department.

(b) The account consists of:

(1) appropriations of money to the account by the legislature;

(2) public or private gifts, grants, or donations, including federal funds, received for the account;

(3) fees received under Section [122.052](#);

(4) interest and income earned on the investment of money in the account;

(5) penalties collected under this chapter other than a civil penalty collected under Subchapter H; and

(6) funds from any other source deposited in the account.

(c) The department may accept appropriations and gifts, grants, or donations from any source to administer and enforce this subtitle. Money received under this subsection shall be deposited in the account.

(d) Money in the account may be appropriated only to the department for the administration and enforcement of this subtitle. Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.004. SEVERABILITY. (a) A provision of this chapter or its application to any person or circumstance is invalid if the secretary of the United States Department of Agriculture determines that the provision or application conflicts with 7 U.S.C. Chapter 38, Subchapter VII, and prevents the approval of the state plan submitted under Chapter [121](#).

(b) The invalidity of a provision or application under Subsection (a) does not affect the other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 122.051. DEPARTMENT RULES AND PROCEDURES. (a) The department shall adopt rules and procedures necessary to implement, administer, and enforce this chapter.

(b) Rules adopted under Subsection (a) must:

(1) prescribe sampling, inspection, and testing procedures, including standards and procedures for the calibration of laboratory equipment, to ensure that the delta-9 tetrahydrocannabinol concentration of hemp plants cultivated in this state is not more than 0.3 percent on a dry weight basis; and

(2) provide due process consistent with Chapter [2001](#), Government Code, including an appeals process, to protect license holders from the consequences of imperfect test results.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.052. FEES. (a) The department shall set and collect:

(1) an application fee for an initial license in an amount not to exceed \$100;

(2) a license renewal fee in an amount not to exceed \$100;

(3) a participation fee for each location described by Section 122.103(a)(1) and each location added after the application is submitted in an amount not to exceed \$100;

(4) a site modification fee for each change to a location described by Section 122.103(a)(1) in an amount not to exceed \$500; and

(5) a collection and testing fee for each preharvest test or postharvest test if performed by the department in an amount not to exceed \$300.

(b) A fee set by the department under this section may not exceed the amount necessary to administer this chapter. The comptroller may authorize the department to collect a fee described by Subsection (a) in an amount greater than the maximum amount provided by that subsection if necessary to cover the department's costs of administering this chapter.

(c) The department may not set or collect a fee associated with the cultivation of hemp that is not listed in Subsection (a), other than:

(1) a fee for the organic certification of hemp under Chapter 18 or for participation in another optional marketing program; or

(2) a fee for the certification of seed or plants under Chapter 62.

(d) Fees collected by the department under this chapter are not refundable and may be appropriated only to the department for the purpose of administering this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.053. INSPECTIONS. (a) The department may randomly inspect land where hemp is grown to determine whether hemp is being cultivated in compliance with this chapter.

(b) The department may enter onto land described by Section 122.103(a)(1), conduct inspections, and collect and test plant samples.

(c) Using participation fees set and collected under Section 122.052(a)(3), the department shall pay the cost of

inspections under this section.

(d) The Department of Public Safety may inspect, collect samples from, or test plants from any portion of a plot to ensure compliance with this chapter. A license holder shall allow the Department of Public Safety access to the plot and the property on which the plot is located for purposes of this subsection.

(e) If, after conducting an inspection or performing testing under this section, the department or the Department of Public Safety determines any portion of a plot is not compliant with this chapter, the department or the Department of Public Safety may report the license holder to the other department or to the attorney general.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.054. SAMPLE COLLECTION AND TESTING. The department may collect samples and perform testing or contract with a laboratory for the performance of that collection and testing on behalf of the department. A test performed by a laboratory on behalf of the department is considered to be performed by the department for purposes of this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.055. SHIPPING CERTIFICATE OR CARGO MANIFEST.
(a) The department shall develop a shipping certificate or cargo manifest which the department shall issue to a license holder in connection with the transportation of a shipment of hemp plant material originating in this state, other than sterilized seeds that are incapable of beginning germination.

(b) A certificate or manifest developed under Subsection (a) must include a unique identifying number for the shipment and the department's contact information to allow law enforcement during a roadside inspection of a motor vehicle transporting the shipment to verify that the shipment consists of hemp cultivated in compliance with this chapter.

(c) The department may coordinate with the Department of

Public Safety to determine whether information included on a certificate or manifest issued under Subsection (a), including the unique identifying number, may be made available to law enforcement personnel through the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety.

(d) A person commits an offense if the person, with intent to deceive law enforcement, forges, falsifies, or alters a shipping certificate or cargo manifest issued under this section. An offense under this subsection is a third degree felony.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER C. HEMP GROWER'S LICENSE

Sec. 122.101. LICENSE REQUIRED; EXCEPTIONS. (a) Except as provided by Subsection (b), a person or the person's agent may not cultivate or handle hemp in this state or transport hemp outside of this state unless the person holds a license under this subchapter.

(b) A person is not required to hold a license under this subchapter to manufacture a consumable hemp product in accordance with Subtitle A, Title 6, Health and Safety Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.102. LICENSE INELIGIBILITY. (a) An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction:

(1) hold a license under this subchapter; or

(2) be a governing person of a business entity that holds a license under this subchapter.

(b) The department may not issue a license under this subchapter to a person who materially falsifies any information contained in an application submitted to the department under Section [122.103](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.103. APPLICATION; ISSUANCE. (a) A person may apply for a license under this subchapter by submitting an application to the department on a form and in the manner prescribed by the department. The application must be accompanied by:

(1) a legal description of each location where the applicant intends to cultivate or handle hemp and the global positioning system coordinates for the perimeter of each location;

(2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the department, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is cultivated or handled to conduct a physical inspection or to ensure compliance with this chapter and rules adopted under this chapter;

(3) the application fee; and

(4) any other information required by department rule.

(b) Except as provided by Subsection (c), the department shall issue a license to a qualified applicant not later than the 60th day after the date the department receives the completed application and the required application fees.

(c) A qualified applicant who along with the application submits proof to the department that the applicant holds a license under Chapter 487, Health and Safety Code, is not required to pay an application fee, and the department shall issue the license to the applicant within the time prescribed by Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.104. TERM; RENEWAL. (a) A license is valid for one year and may be renewed as provided by this section.

(b) The department shall renew a license if the license holder:

(1) is not ineligible to hold the license under Section 122.102;

(2) submits to the department the license renewal fee;
and

(3) does not owe any outstanding fee described by
Section [122.052](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2,
eff. June 10, 2019.

Sec. 122.105. REVOCATION. The department shall revoke a
license if the license holder is convicted of a felony relating to a
controlled substance under federal law or the law of any state.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2,
eff. June 10, 2019.

SUBCHAPTER D. TESTING

Sec. 122.151. TESTING LABORATORIES. (a) Subject to
Subsection (b), testing under this subchapter or Section [122.053](#)
must be performed by:

- (1) the department;
- (2) an institution of higher education; or
- (3) an independent testing laboratory registered
under Section [122.152](#).

(b) To perform testing under this chapter, a laboratory
described by Subsection (a) must be accredited by an independent
accreditation body in accordance with International Organization
for Standardization ISO/IEC 17025 or a comparable or successor
standard.

(c) A license holder shall select a laboratory described by
Subsection (a) to perform preharvest or postharvest testing of a
sample taken from the license holder's plot. A license holder may
not select an independent testing laboratory under Subsection
(a)(3) unless the license holder has:

- (1) no ownership interest in the laboratory; or
- (2) less than a 10 percent ownership interest in the
laboratory if the laboratory is a publicly traded company.

(d) A license holder must pay the costs of preharvest or
postharvest sample collection and testing in the amount prescribed

by the laboratory selected by the license holder.

(e) The department shall recognize and accept the results of a test performed by an institution of higher education or an independent testing laboratory described by Subsection (a). The department shall require that a copy of the test results be sent by the institution of higher education or independent testing laboratory directly to the department and the license holder.

(f) The department shall notify the license holder of the results of the test not later than the 14th day after the date the sample was collected under Section 122.154 or the date the department receives test results under Subsection (e).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.152. REGISTRATION OF INDEPENDENT TESTING LABORATORIES. (a) The department shall register independent testing laboratories authorized to conduct testing under Section 122.151(a)(3).

(b) A laboratory is eligible for registration if the laboratory submits to the department proof of accreditation by an independent accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard and any required fee.

(c) The department shall annually prepare a registry of all independent testing laboratories registered by the department and make the registry available to license holders.

(d) The department may charge a registration fee to recover the costs of administering this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.153. PREHARVEST TESTING REQUIRED. (a) A license holder may not harvest a hemp plant or plant intended or believed to be hemp unless a representative sample of plants from the plot where the plant is grown is collected before harvest and subsequently tested using post-decarboxylation, high-performance liquid chromatography, or another similarly reliable method to determine

the delta-9 tetrahydrocannabinol concentration of the sample in the manner required by this subchapter.

(b) For purposes of Subsection (a), a representative sample of plants from a plot consists of cuttings taken from at least five plants throughout the plot. The department by rule shall prescribe the minimum distance between plants from which cuttings may be taken based on the size of the plot.

(c) A laboratory performing preharvest testing under this section shall homogenize all the cuttings in the sample and test the delta-9 tetrahydrocannabinol concentration of a random sample of the homogenized material.

(d) This section does not prohibit a license holder from harvesting plants immediately after a preharvest sample is collected.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.154. PREHARVEST SAMPLE COLLECTION. (a) A license holder shall notify the department at least 20 days before the date the license holder expects to harvest plants from a plot in the manner prescribed by department rule.

(b) A sample must be collected by the department or another entity described by Section [122.151](#)(a) for purposes of preharvest testing under Section [122.153](#).

(c) The department by rule may prescribe reasonable procedures for submitting a preharvest sample collected under this section to a testing laboratory selected by the license holder.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.155. OPTIONAL POSTHARVEST TESTING. (a) The department by rule shall allow a license holder to have a single postharvest test performed on a representative sample of plants from a plot if the results of the preharvest test representing the plot show a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

(b) The department by rule shall prescribe the requirements

for a representative sample and for sample collection under this section.

(c) If a license holder fails to request postharvest testing on or before the 15th day after the date the license holder is notified of the results of the preharvest test, the results of the preharvest test are final.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.156. SHIPPING DOCUMENTATION FOR TEST SAMPLES. The department shall issue documentation to an entity authorized to collect samples of plants for testing that authorizes the transportation of those samples from the place of collection to a testing laboratory described by Section [122.151](#)(a).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.157. FALSE LABORATORY REPORT; CRIMINAL OFFENSE.

(a) A person commits an offense if the person, with the intent to deceive, forges, falsifies, or alters the results of a laboratory test required or authorized under this chapter.

(b) An offense under Subsection (a) is a third degree felony.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER E. HARVEST AND USE OR DISPOSAL OF PLANTS

Sec. 122.201. HARVEST. (a) A license holder shall harvest the plants from a plot not later than the 20th day after the date a preharvest sample is collected under Section [122.154](#) unless field conditions delay harvesting or the department authorizes the license holder to delay harvesting. This subsection does not prohibit the license holder from harvesting the plants immediately after the preharvest sample is collected.

(b) A license holder may not sell or use harvested plants before the results of a preharvest and, if applicable, postharvest

test performed on a sample representing the plants are received. If the test results are not received before the plants are harvested, the license holder shall dry and store the harvested plants until the results are received.

(c) A license holder may not commingle harvested plants represented by one sample with plants represented by another sample until the results of the tests are received.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.202. USE OR DISPOSAL OF HARVESTED PLANTS. (a) If the results of a preharvest or postharvest test performed on a sample show a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, the license holder may sell or use the plants represented by the sample for any purpose allowed by law.

(b) If the results of a preharvest and, if applicable, postharvest test performed on a sample show a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis:

(1) the license holder shall dispose of or destroy all plants represented by the sample:

(A) in the manner prescribed by federal law; or

(B) in a manner approved by the department that does not conflict with federal law; or

(2) if the department determines the plants represented by the sample reached that concentration solely as a result of negligence, the license holder is subject to Section [122.403](#)(c) and may:

(A) trim the plants until the delta-9 tetrahydrocannabinol concentration of the plants is not more than 0.3 percent on a dry weight basis and dispose of the noncompliant parts of the plants in a manner approved by the department;

(B) process the plants into fiber with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis and dispose of any remaining parts of the plants in a manner approved by the department; or

(C) take any other corrective action consistent with federal regulations adopted under 7 U.S.C. Chapter 38, Subchapter VII.
Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

SUBCHAPTER F. HEMP SEED

Sec. 122.251. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to sterilized seeds that are incapable of beginning germination.
Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.252. CERTIFICATION OR APPROVAL. (a) The department or an entity authorized to certify seed under Chapter 62 shall identify and certify or approve seed confirmed to produce hemp.

(b) The department or entity may not certify or approve a variety of hemp seed if the seed is tested and confirmed to produce a plant that has delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis. For purposes of this subsection, the department may partner with a private entity or an institution of higher education to test seed for the purpose of certification or approval under this section.

(c) The department may authorize the importation of hemp seed certified in accordance with the law of another state or jurisdiction that requires as a condition of certification that hemp be produced in compliance with:

(1) that state or jurisdiction's plan approved by the United States Department of Agriculture under 7 U.S.C. Section 1639p; or

(2) a plan established under 7 U.S.C. Section 1639q if that plan applies in the state or jurisdiction.

(d) The department shall maintain and make available to license holders a list of hemp seeds certified or approved under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.253. PROHIBITED USE OF CERTAIN HEMP SEED. A person may not sell, offer for sale, distribute, or use hemp seed in this state unless the seed is certified or approved under Section [122.252](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER G. NONCONSUMABLE HEMP PRODUCTS

Sec. 122.301. MANUFACTURE. (a) Except as provided by Subsection (b), a state agency may not prohibit a person who manufactures a product regulated by the agency, other than an article regulated under Chapter [431](#), Health and Safety Code, from applying for or obtaining a permit or other authorization to manufacture the product solely on the basis that the person intends to manufacture the product as a nonconsumable hemp product.

(b) A state agency may not authorize a person to manufacture a product containing hemp for smoking, as defined by Section [443.001](#), Health and Safety Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.302. POSSESSION, TRANSPORTATION, AND SALE. (a) Notwithstanding any other law, a person may possess, transport, sell, and purchase legally produced nonconsumable hemp products in this state.

(b) The department by rule must provide to a retailer of nonconsumable hemp products fair notice of a potential violation concerning hemp products sold by the retailer and an opportunity to cure a violation made unintentionally or negligently.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.303. RETAIL SALE OF OUT-OF-STATE PRODUCTS. A

nonconsumable hemp product manufactured outside of this state may be sold at retail in this state unless:

(1) the hemp used to manufacture the product was cultivated illegally; or

(2) the retail sale of the product in this state violates federal law.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.304. TRANSPORTATION AND EXPORTATION OUT OF STATE. Nonconsumable hemp products may be legally transported across state lines and exported to foreign jurisdictions in a manner that is consistent with federal law and the laws of respective foreign jurisdictions.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER H. TRANSPORTATION REQUIREMENTS

Sec. 122.351. DEFINITION. In this subchapter, "peace officer" has the meaning assigned by Article [2.12](#), Code of Criminal Procedure.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.352. POLICY. It is the policy of this state to not interfere with the interstate commerce of hemp or the transshipment of hemp through this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.353. INTERSTATE TRANSPORTATION. To the extent of a conflict between a provision of this chapter and a provision of federal law involving interstate transportation of hemp, including a United States Department of Agriculture regulation, federal law controls and conflicting provisions of this chapter do not apply.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2,

eff. June 10, 2019.

Sec. 122.354. DEPARTMENT RULES. The department, in consultation with the Department of Public Safety, shall adopt rules regulating the transportation of hemp in this state to ensure that illegal marihuana is not transported into or through this state disguised as legal hemp.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.355. HEMP TRANSPORTATION ACCOUNT. (a) The hemp transportation account is a dedicated account in the general revenue fund administered by the department. The account consists of:

(1) civil penalties collected under this subchapter; and

(2) interest and income earned on the investment of money in the account.

(b) Money in the account may be appropriated only to the department for the administration and enforcement of this subchapter. The department may transfer money appropriated under this subsection to the Department of Public Safety for the administration and enforcement of that department's powers and duties under this subchapter, unless prohibited by other law.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.356. DOCUMENTATION AND OTHER SHIPPING REQUIREMENTS. (a) A person may not transport hemp plant material in this state unless the hemp:

(1) is produced in compliance with:

(A) a state or tribal plan approved by the United States Department of Agriculture under 7 U.S.C. Section 1639p; or

(B) a plan established under 7 U.S.C. Section 1639q if the hemp was cultivated in an area where that plan applies; and

(2) is accompanied by:

(A) a shipping certificate or cargo manifest issued under Section [122.055](#) if the hemp originated in this state; or

(B) documentation containing the name and address of the place where the hemp was cultivated and a statement that the hemp was produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII, if the hemp originated outside this state.

(b) A person transporting hemp plant material in this state:

(1) may not concurrently transport any cargo that is not hemp plant material; and

(2) shall furnish the documentation required by this section to the department or any peace officer on request.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.357. AGRICULTURAL PESTS AND DISEASES. A person may not transport in this state hemp that contains an agricultural pest or disease as provided by department rule.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.358. POWERS AND DUTIES OF PEACE OFFICERS. (a) A peace officer may inspect and collect a reasonably sized sample of any material from the plant *Cannabis sativa* L. found in a vehicle to determine the delta-9 tetrahydrocannabinol concentration of the plant material. Unless a peace officer has probable cause to believe the plant material is marihuana, the peace officer may not:

(1) seize the plant material; or

(2) arrest the person transporting the plant material.

(b) A peace officer may detain any hemp being transported in this state until the person transporting the hemp provides the documentation required by Section [122.356](#). The peace officer shall immediately release the hemp to the person if the person produces documentation required by that section.

(c) If a peace officer has probable cause to believe that a person transporting hemp in this state is also transporting marihuana or a controlled substance, as defined by Section [481.002](#),

Health and Safety Code, or any other illegal substance under state or federal law, the peace officer may seize and impound the hemp along with the controlled or illegal substance.

(d) This subchapter does not limit or restrict a peace officer from enforcing to the fullest extent the laws of this state regulating marihuana and controlled substances, as defined by Section [481.002](#), Health and Safety Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.359. CIVIL PENALTY. (a) A person who violates Section [122.356](#) is liable to this state for a civil penalty in an amount not to exceed \$500 for each violation.

(b) The attorney general or any district or county attorney may bring an action to recover the civil penalty.

(c) A civil penalty collected under this section must be deposited in the hemp transportation account under Section [122.355](#). Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

Sec. 122.360. CRIMINAL OFFENSE. (a) A person commits an offense if the person violates Section [122.356](#).

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$1,000.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.

SUBCHAPTER I. ENFORCEMENT; PENALTIES

Sec. 122.401. PENALTY SCHEDULE. (a) The department by rule shall adopt a schedule of sanctions and penalties for violations of this chapter and rules adopted under this chapter that does not conflict with 7 U.S.C. Section 1639p(e).

(b) A penalty collected under this chapter other than a civil penalty collected under Subchapter H must be deposited in the state hemp production account under Section [122.003](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2,

eff. June 10, 2019.

Sec. 122.402. ADMINISTRATIVE PENALTY. Except as provided by Section 122.403 and to the extent permitted under 7 U.S.C. Section 1639p(e), the department may impose an administrative penalty or other administrative sanction for a violation of this chapter or a rule or order adopted under this chapter, including a penalty or sanction under Section 12.020 or 12.0201.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2, eff. June 10, 2019.

Sec. 122.403. NEGLIGENT VIOLATIONS BY LICENSE HOLDER.

(a) If the department determines that a license holder negligently violated this chapter or a rule adopted under this chapter, the department shall enforce the violation in the manner provided by 7 U.S.C. Section 1639p(e).

(b) A license holder described by Subsection (a) is not subject to a civil, criminal, or administrative enforcement action other than an enforcement action provided by this chapter.

(c) A license holder who violates this chapter by cultivating plants described by Section 122.202(b)(2):

(1) must comply with an enhanced testing protocol developed by the department;

(2) shall pay a fee in the amount of \$500 for each violation to cover the department's costs of administering the enhanced testing protocol; and

(3) shall be included on a list maintained by the department of license holders with negligent violations, which is public information for purposes of Chapter 552, Government Code.

(d) A person who negligently violates this chapter three times in any five-year period may not cultivate, process, or otherwise produce hemp in this state before the fifth anniversary of the date of the third violation. The department shall include each person subject to this subsection on a list of banned producers, which is public information for purposes of Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. 1325), Sec. 2,

eff. June 10, 2019.

Sec. 122.404. OTHER VIOLATIONS BY LICENSE HOLDER. If the department suspects or determines that a license holder violated this chapter or a rule adopted under this chapter with a culpable mental state greater than negligence, the department shall immediately report the license holder to:

- (1) the United States attorney general; and
- (2) the attorney general of this state, who may:
 - (A) investigate the violation;
 - (B) institute proceedings for injunctive or other appropriate relief on behalf of the department; or
 - (C) report the matter to the Department of Public Safety and any other appropriate law enforcement agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 2, eff. June 10, 2019.