

BILL ANALYSIS

S.B. 339
By: Eltife
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to estimates of the Epilepsy Foundation of Texas, intractable epilepsy afflicts almost 150,000 people in this state. Concerned parties explain that patients with intractable epilepsy can suffer dozens or more severe seizures each week and that these individuals are at a higher risk for disability, injury, and even death. S.B. 339 seeks to regulate the growth and dispensation of low-THC cannabis for use in treating certain Texas residents diagnosed with intractable epilepsy.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

S.B. 339 amends the Occupations Code to authorize a qualified physician to prescribe low-THC cannabis to a patient with intractable epilepsy, defined by the bill as a seizure disorder in which the patient's seizures have been treated by two or more appropriately chosen and maximally titrated antiepileptic drugs that have failed to control the seizures. The bill establishes that a physician is qualified to prescribe low-THC cannabis to such a patient if the physician is licensed under the Medical Practice Act, dedicates a significant portion of clinical practice to the evaluation and treatment of epilepsy, and is certified by the appropriate certification board in epilepsy, neurophysiology, or neurology or neurology with special qualification in child neurology if the physician is otherwise qualified for the examination for certification in epilepsy.

S.B. 339 authorizes a qualified physician to prescribe low-THC cannabis to alleviate a patient's seizures if the patient is a permanent Texas resident; the physician complies with the bill's registration requirements; and the physician certifies to the Department of Public Safety (DPS) that the patient is diagnosed with intractable epilepsy, that the physician determines the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient, and that a second qualified physician has concurred with that determination and the second physician's concurrence is recorded in the patient's medical record.

S.B. 339 requires a qualified physician, before the physician may prescribe or renew a prescription for low-THC cannabis for a patient, to register as the prescriber for that patient in the compassionate-use registry created under the bill and maintained by DPS and requires the registration to indicate the physician's name, the patient's name and date of birth, the dosage prescribed to the patient, the means of administration ordered for the patient, and the total amount of low-THC cannabis required to fill the patient's prescription. The bill requires a

qualified physician prescribing low-THC cannabis for a patient's medical use to maintain a patient treatment plan that indicates the dosage, means of administration, and planned duration of treatment for the low-THC cannabis, a plan for monitoring the patient's symptoms, and a plan for monitoring indicators of tolerance or reaction to low-THC cannabis.

S.B. 339 amends the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require DPS to issue or renew a license to operate as a dispensing organization, defined by the bill as an organization licensed by DPS to cultivate, process, and dispense low-THC cannabis to a patient for whom low-THC cannabis is prescribed, to each applicant who satisfies the bill's requirements and to register directors, managers, and employees of each dispensing organization. The bill requires DPS to enforce compliance of licensees and registrants and to adopt procedures for suspending, revoking, and renewing a license or registration. The bill requires DPS to establish and maintain a secure online compassionate-use registry that contains specified information about a physician who registers as the prescriber of low-THC cannabis for a patient, about the patient prescribed such treatment, and about the patient's prescription and a record of each amount of low-THC cannabis dispensed by a dispensing organization to a patient under a prescription. The bill requires DPS to ensure the registry is designed to prevent more than one qualified physician from registering as the prescriber for a single patient, is accessible to law enforcement agencies and dispensing organizations for the purpose of verifying whether a patient is one for whom low-THC cannabis is prescribed and whether the patient's prescriptions have been filled, and allows a qualified physician to input safety and efficacy data derived from the treatment of patients for whom low-THC cannabis is prescribed.

S.B. 339 requires a dispensing organization to obtain a license issued by DPS; sets out eligibility and application requirements for such a license; provides for the issuance, renewal, or denial of a license; and establishes provisions relating to the suspension or revocation of a license. The bill specifies that an original or renewal license to operate a dispensing organization expires on the second anniversary of the date of issuance or renewal as applicable and provides for a criminal history background check conducted by DPS of the applicant and all directors, managers, and employees of an applicant for a license to operate a dispensing organization. The bill requires the public safety director of DPS by rule to determine the manner by which an individual is required to submit a complete set of fingerprints to DPS for purposes of the background check and to establish criteria for determining whether an individual passes the background check.

S.B. 339 requires a dispensing organization, before dispensing low-THC cannabis to a person for whom the low-THC cannabis is prescribed, to verify that the prescription presented is for a person listed as a patient in the compassionate-use registry, matches the entry in the registry with respect to the total amount of low-THC cannabis required to fill the prescription, and has not previously been filled by a dispensing organization as indicated by an entry in the registry. The bill requires the dispensing organization, after dispensing low-THC cannabis to a patient for whom low-THC cannabis is prescribed, to record in the registry the form and quantity of low-THC cannabis dispensed and the date and time of dispensation. The bill requires an individual who is a director, manager, or employee of a dispensing organization to apply for and obtain a registration, sets out eligibility requirements for such a registration, and specifies that a registration expires on the second anniversary of the date of the registration's issuance unless suspended or revoked.

S.B. 339 prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis as authorized by the bill's provisions. The bill exempts a licensed dispensing organization that possesses low-THC cannabis from registration under the Texas Controlled Substances Act, authorizes such a dispensing organization to possess a controlled substance under the act, and exempts, under certain conditions, a person who engages in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or

cultivation of low-THC cannabis from offenses relating to the delivery or possession of marihuana, the delivery of a controlled substance or marihuana to a child, or the possession or delivery of drug paraphernalia.

S.B. 339 requires DPS to administer the bill's provisions regarding the licensing and registration of dispensing organizations and employees and requires the public safety director of DPS, not later than December 1, 2015, to adopt rules to implement, administer, and enforce those provisions, including rules to establish the compassionate-use registry. The bill requires DPS, not later than September 1, 2017, to license at least three dispensing organizations, provided at least three applicants for a license to operate as a dispensing organization have met the requirements for approval.

S.B. 339 amends the Occupations Code to exempt from the Texas Pharmacy Act a dispensing organization that cultivates, processes, and dispenses low-THC cannabis, as authorized by the bill's provisions, to a patient listed in the compassionate-use registry.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.