

AMENDMENTS TO SENATE BILL NO. 773

Sponsor: REPRESENTATIVE HARKINS

Printer's No. 1191

1 Amend Bill, page 1, lines 1 through 21, by striking out all
2 of lines 1 through 20 and "definitions." in line 21 and
3 inserting

4 Amend Bill, page 1, line 21, by inserting before "
5 The"

6 Amending the act of April 17, 2016 (P.L.84, No.16), entitled "An
7 act establishing a medical marijuana program; providing for
8 patient and caregiver certification and for medical marijuana
9 organization registration; imposing duties on the Department
10 of Health; providing for a tax on medical marijuana
11 organization gross receipts; establishing the Medical
12 Marijuana Program Fund; establishing the Medical Marijuana
13 Advisory Board; establishing a medical marijuana research
14 program; imposing duties on the Department of Corrections,
15 the Department of Education and the Department of Human
16 Services; and providing for academic clinical research
17 centers and for penalties and enforcement," in preliminary
18 provisions, further providing for definitions; in medical
19 marijuana organizations, further providing for application
20 and issuance, for limitations on permits and providing for
21 additional dispensary and grower/processor permits
22 authorized, for application and issuance of additional
23 permits and for limitations on other additional permits or
24 licenses; and, in academic clinical research centers and
25 clinical registrants, further providing for definitions.

26 Amend Bill, page 1, lines 24 through 26; pages 2 through 14,
27 lines 1 through 30; page 15, lines 1 through 19; by striking out
28 all of said lines on said pages

29 Amend Bill, page 15, by inserting after line 19

30 Section 1. Section 103 of the act of April 17, 2016 (P.L.84,
31 No.16), known as the Medical Marijuana Act, is amended by adding

1 definitions to read:
2 Section 103. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 * * *

7 "Change of control transaction." The consolidation, merger
8 or acquisition by a person or group of persons acting in concert
9 of more than 20% of:

10 (1) a medical marijuana organization's securities or
11 other ownership interests, with the exception of any
12 ownership interest of the person that existed:

13 (i) at the time of the issuance of the initial
14 medical marijuana organization's permit and payment of
15 the initial permit; or

16 (ii) prior to the effective date of this
17 subparagraph; or

18 (2) the securities or other ownership interests of a
19 corporation or other form of business entity which owns
20 directly or indirectly 20% of the securities or other
21 ownership interests of the medical marijuana organization.

22 * * *

23 "Diverse group." The term shall mean the same as under
24 section 615(d).

25 * * *

26 "Independent dispensary." A dispensary issued a permit to
27 operate in this Commonwealth and that meets all of the
28 following:

29 (1) Has not had the dispensary's permit revoked.

30 (2) Has not entered into a change of control transaction
31 with any other person that was issued a grower/processor
32 permit, dispensary permit or clinical registrant permit in
33 this Commonwealth.

34 (3) Is not materially the same as another medical
35 marijuana organization in this Commonwealth through a parent
36 company, subsidiary or shared affiliation with another entity
37 that holds a permit from the department under this act or
38 through the sharing of principals, officers or directors,
39 employees, facilities, equipment, finances or capital.

40 "Independent grower/processor." A grower/processor awarded a
41 permit to operate in this Commonwealth that meets all of the
42 following criteria as of the effective date of this definition:

43 (1) Has not had its permit revoked.

44 (2) Has not entered into a change of control transaction
45 with any other person that was issued a grower/processor
46 permit, dispensary permit or clinical registrant permit in
47 this Commonwealth.

48 (3) Is not materially the same as another medical
49 marijuana organization in this Commonwealth through a parent
50 company or subsidiary of another entity that holds a permit
51 from the department under this act or through the sharing of

1 principals, officers or directors, employees, facilities,
2 equipment, finances or capital.

3 * * *

4 "Materially the same." A person who shares any of the
5 following with another person:

6 (1) Profits or losses.

7 (2) Common valuation, in the case of a publicly traded
8 company.

9 (3) Common ownership of more than 5%, including
10 subsidiaries.

11 (4) Common ownership of 5% or less if the persons with
12 voting rights to elect or appoint one or more members of the
13 board of directors or other governing board.

14 (5) Common management, policies, principals, officers,
15 directors, employees, equipment, finances or capital.

16 * * *

17 "Parent company." A company which directly or indirectly
18 controls any other permittee under this act.

19 * * *

20 "Person." A natural person, corporation, foundation,
21 organization, business trust, estate, limited liability company,
22 licensed corporation, trust, partnership, limited liability
23 partnership, association or other form of legal business entity.

24 * * *

25 Section 2. Sections 606(a)(1) and 616(5) of the act are
26 amended to read:

27 Section 606. Application and issuance.

28 (a) Duty to report.--An applicant to be a grower/processor
29 or to operate a dispensary is under a continuing duty to:

30 (1) Report to the department any change in facts or
31 circumstances reflected in the application or any newly
32 discovered or occurring fact or circumstance which is
33 required to be included in the application, including a
34 change in control or change of control transaction of the
35 medical marijuana organization.

36 * * *

37 Section 616. Limitations on permits.

38 The following limitations apply to approval of permits for
39 grower/processors and dispensaries:

40 * * *

41 (5) [No] Except as provided under section 617, no more
42 than five grower/processors may be issued permits as
43 dispensaries. [If the number of growers/processors is
44 increased under section 1202, no more than 20% of the total
45 number of growers/processors may also be issued permits as
46 dispensaries.]

47 * * *

48 Section 3. The act is amended by adding sections to read:
49 Section 617. Additional dispensary and grower/processor permits
50 authorized.

51 (a) Authorization.--

1 (1) An independent grower/processor that applies and
2 meets the requirements under section 618 shall be issued one
3 dispensary permit.

4 (2) An independent dispensary that applies and meets the
5 requirements under section 618 shall be issued one
6 grower/processor permit.

7 (b) Rights and privileges.--The permits issued under this
8 section shall carry the same rights, privileges and obligations
9 as permits issued under this chapter.

10 (c) Suspension or revocation prohibited.--The department may
11 not suspend or revoke the permit of an entity that receives a
12 permit under this section due to the entity entering into a
13 change of control transaction with any person at least one year
14 after the holder of the dispensary permit becomes operational in
15 this Commonwealth. Nothing in this section shall prohibit the
16 department from taking action for a violation of section 618(a)
17 (4).

18 (d) Permit for clinical registrant.--Notwithstanding
19 subsection (c) or section 619, an independent grower/processor
20 or independent dispensary that applies for a permit to convert
21 to a clinical registrant under section 2002 shall surrender a
22 grower/processor permit or dispensary permit, or both,
23 previously issued to the independent grower/processor or
24 independent dispensary.

25 Section 618. Application and issuance of additional permits.

26 (a) Applications.--

27 (1) The department shall develop a standard application
28 form and open applications for permits authorized under
29 section 617 within 30 days of the effective date of this
30 paragraph.

31 (2) Applicants under this section shall submit
32 applications for permits authorized under section 617.

33 (3) The department shall review applications for permits
34 authorized under section 617 within 45 days of receipt of an
35 application under paragraph (1) from an eligible independent
36 grower/processor or independent dispensary.

37 (4) An application for a permit authorized under section
38 617 shall require:

39 (i) Supporting documentation and certification to
40 the department that the applicant qualifies as an
41 independent grower/processor or independent dispensary.

42 (ii) Certification to the department that the
43 applicant will not enter into a change of control
44 transaction with any other person for a duration of one
45 year from the date the first dispensary location or
46 grower/processor location is deemed operational by the
47 department, unless the change of control transaction
48 occurs after the holder of the permit becomes operational
49 and is between the applicant and a diverse group.

50 (iii) Any information required under section 602
51 that has significantly changed since the applicant

1 received an initial permit.

2 (b) Issuance.--

3 (1) Except as provided under paragraph (3), the
4 department shall issue permits under section 617 within 60
5 days of the application submission deadline under subsection
6 (a) (2) to all applicants that meet the minimum requirements
7 for permitting under this chapter. The department shall
8 notify an applicant for permits authorized under section 617
9 of the approval of an application by certified mail or email.

10 (2) If an application under this section is incomplete,
11 the following apply:

12 (i) The department shall, within 15 days of
13 reviewing the application, notify the applicant by
14 certified mail or email of the missing application
15 materials.

16 (ii) An applicant shall have 15 days from when the
17 notice is received under this paragraph to provide
18 missing materials to the department.

19 (iii) An applicant's failure to complete the
20 application by the deadline under subparagraph (ii) shall
21 be grounds for denial of a permit.

22 (3) If an application under this section is complete but
23 does not meet the minimum criteria for a permit, the
24 department shall notify the applicant by certified mail or
25 email of the deficiencies in the application and the
26 following apply:

27 (i) An applicant shall have 30 days from the date
28 the notice is received under this paragraph to provide
29 supplemental application materials to the department.

30 (ii) An applicant's failure to provide the
31 supplemental application materials to the department by
32 the deadline will be grounds for denial of the issuance
33 of a permit.

34 (iii) An applicant's failure to meet the minimum
35 criteria for a permit after providing supplemental
36 application materials to the department shall be grounds
37 for denial of the issuance of a permit.

38 (iv) The department may use up to 30 additional days
39 to issue dispensary permits to applicants that meet the
40 minimum criteria for a permit after providing
41 supplemental application materials to the department.

42 (4) If the department denies an application for a
43 dispensary permit authorized under section 617, the
44 department shall notify the applicant of the denial by
45 certified mail or email. The notice shall include each
46 deficiency in the application that does not meet the minimum
47 criteria to be issued a dispensary permit.

48 (5) If an independent grower/processor or independent
49 dispensary receives a denial under paragraph (4), the
50 independent grower/processor or independent dispensary may
51 reapply for a permit authorized under section 617 30 days

1 after receiving notice of a denial.

2 (6) Appeals to the issuance or denials of dispensary
3 permits under this section must be responded to by the
4 department within 45 days of submittal.

5 (7) An independent grower/processor or independent
6 dispensary issued a permit under section 617 shall notify the
7 department when the independent grower/processor or
8 independent dispensary location is operational.

9 (8) Upon notification under paragraph (7), the
10 department shall schedule an inspection to determine if the
11 medical marijuana organization facility is operational to the
12 satisfaction of the department. Nothing in this section shall
13 prohibit the department from determining that the inspected
14 location fails to be operational.

15 (c) Fees.--

16 (1) An independent grower/processor applying for a
17 dispensary permit shall pay:

18 (i) An initial application fee in the amount of
19 \$5,000. The fee is nonrefundable.

20 (ii) A permit fee of \$30,000 for each dispensary
21 location. The period of the permit shall be one year. An
22 applicant shall submit the permit fee at the time of
23 submission of the application. The fee shall be returned
24 if the application is not granted.

25 (iii) A renewal fee for the permit as a dispensary
26 in the amount of \$5,000. The fee shall be returned if the
27 renewal is not granted and shall cover renewal for all
28 locations. An application to renew a permit must be filed
29 with the department not more than six months nor less
30 than four months prior to expiration.

31 (iv) A fee of \$250 when amending the application to
32 indicate relocation within this Commonwealth or the
33 addition or deletion of approved activities by the
34 medical marijuana organization.

35 (2) An independent dispensary applying for a
36 grower/processor permit shall pay:

37 (i) An initial application fee in the amount of
38 \$10,000. The fee is nonrefundable.

39 (ii) A permit fee of \$200,000. The period of the
40 permit is one year. An applicant shall submit the permit
41 fee at the time of submission of the application. The fee
42 shall be returned if the application is not granted.

43 (iii) A renewal fee for the permit as a
44 grower/processor in the amount of \$10,000. The fee shall
45 cover the renewal for all locations. The renewal fee
46 shall be returned if the renewal is not granted. An
47 application to review a permit must be filed with the
48 department not more than six months nor less than four
49 months prior to expiration.

50 (iv) A fee of \$250 when amending the application to
51 indicate relocation within this Commonwealth or the

1 addition or deletion of approved activities by the
2 medical marijuana organization.

3 (3) All fees under this subsection shall be paid by
4 certified check or money order.

5 (4) Fees payable under this subsection shall be
6 deposited into the fund.

7 (d) Regions.--An independent grower/processor may apply for
8 a dispensary permit under this section in any region established
9 under section 603(d).

10 (e) Certification violation.--If an independent
11 grower/processor or independent dispensary enters into a change
12 of control transaction with another entity in violation of this
13 act, the contract or agreement executed with the other entity
14 for the change of control transaction shall be void, unless the
15 change of control transaction occurs at least one year after the
16 permittee becomes operational or the merger is between a permit
17 holder and a diverse group.

18 Section 619. Limitations on other additional permits or
19 licenses.

20 Notwithstanding the provisions of section 617 or 618, nothing
21 in section 617 or 618 shall be construed to limit an entity that
22 qualifies as an independent grower/processor or independent
23 dispensary from applying for and receiving additional permits or
24 licenses under any other provisions of this act upon the release
25 of additional permits or licenses by the department or the
26 Commonwealth.

27 Section 4. Section 2001 of the act is amended by adding a
28 definition to read:

29 Section 2001. Definitions.

30 The following words and phrases when used in this chapter
31 shall have the meanings given to them in this section unless the
32 context clearly indicates otherwise:

33 * * *

34 "Accredited medical school." An institution located within
35 this Commonwealth that is accredited by the Liaison Committee of
36 Medical Education or the Commission on Osteopathic College
37 Accreditation or has gained pre-accreditation or provisional
38 accreditation so that the institution is authorized to enroll
39 students and is affiliated with an accredited institution of
40 higher education located within this Commonwealth.

41 * * *

42 Section 5. This act shall take effect in 120 days.