

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1024 Session of 2021

INTRODUCED BY SCHEMEL, BURGOS, POLINCHOCK, RAPP, RYAN, ZIMMERMAN, WHEATLEY, SHUSTERMAN AND FRANKEL, MARCH 26, 2021

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 24, 2021

AN ACT

1 Amending the act of April 17, 2016 (P.L.84, No.16), entitled "An
2 act establishing a medical marijuana program; providing for
3 patient and caregiver certification and for medical marijuana
4 organization registration; imposing duties on the Department
5 of Health; providing for a tax on medical marijuana
6 organization gross receipts; establishing the Medical
7 Marijuana Program Fund; establishing the Medical Marijuana
8 Advisory Board; establishing a medical marijuana research
9 program; imposing duties on the Department of Corrections,
10 the Department of Education and the Department of Human
11 Services; and providing for academic clinical research
12 centers and for penalties and enforcement," in preliminary
13 provisions, further providing for definitions; in program,
14 further providing for lawful use of medical marijuana; in
15 practitioners, further providing for duration; in patients,
16 further providing for caregivers; in medical marijuana
17 organizations, further providing for permits AND FOR <--
18 RELOCATION; IN MEDICAL MARIJUANA CONTROLS, FURTHER PROVIDING
19 FOR GROWER/PROCESSOR AND FOR LABORATORY; in dispensaries,
20 further providing for dispensing to patients and caregivers
21 and for facility requirements; and, in miscellaneous
22 provisions, further providing for applicability.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The definitions of "caregiver" and "continuing
26 care" in section 103 of the act of April 17, 2016 (P.L.84,
27 No.16), known as the Medical Marijuana Act, are amended and the

1 section is amended by adding a definition 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 "Caregiver." The [individual] person designated by a patient
8 or, if the patient is under 18 years of age, an individual under
9 section 506(2), to deliver medical marijuana.

10 * * *

11 "Continuing care." Treating a patient, in the course of
12 which the practitioner has completed a full assessment of the
13 patient's medical history and current medical condition,
14 including [an in-person] a consultation with the patient.

15 * * *

16 "Person." Any natural person, corporation, foundation,
17 organization, business trust, estate, limited liability company,
18 licensed corporation, trust, partnership, limited liability
19 partnership, association or other form of legal business entity.

20 * * *

21 Section 2. Sections 303(b)(4), 405, 502(b), 602(a)(4), 609, <--
22 702, 704, 801(e), 802(a)(1) and 2109(a) of the act are amended
23 to read:

24 Section 303. Lawful use of medical marijuana.

25 * * *

26 (b) Requirements.--The lawful use of medical marijuana is
27 subject to the following:

28 * * *

29 [(4) An individual may not act as a caregiver for more
30 than five patients.]

1 * * *

2 Section 405. Duration.

3 Receipt of medical marijuana by a patient or caregiver from a
4 dispensary may not exceed a [30-day] 90-day supply of individual
5 doses. During the last seven days of any 30-day period during
6 the term of the identification card, a patient may obtain and
7 possess a [30-day] 90-day supply for the subsequent 30-day
8 period. Additional [30-day] 90-day supplies may be provided in
9 accordance with this section for the duration of the authorized
10 period of the identification card unless a shorter period is
11 indicated on the certification.

12 Section 502. Caregivers.

13 * * *

14 (b) Criminal history.--A caregiver who has not been
15 previously approved by the department under this section shall
16 submit fingerprints for the purpose of obtaining criminal
17 history record checks, and the Pennsylvania State Police or its
18 authorized agent shall submit the fingerprints to the Federal
19 Bureau of Investigation for the purpose of verifying the
20 identity of the applicant and obtaining a current record of any
21 criminal arrests and convictions. Any criminal history record
22 information relating to a caregiver obtained under this section
23 by the department may be interpreted and used by the department
24 only to determine the applicant's character, fitness and
25 suitability to serve as a caregiver under this act. The criminal
26 history record information provided under this subsection shall <--
27 MAY not be subject to the limitations under 18 Pa.C.S. § 9121(b) <--
28 (2) (relating to general regulations). The department shall also
29 review the prescription drug monitoring program relating to the
30 caregiver. The department shall deny the application of a

1 caregiver who has been convicted of a criminal offense that
2 occurred within the past five years relating to the sale or
3 possession of drugs, narcotics or controlled substances. The
4 department may deny an application if the applicant has a
5 history of drug abuse or of diverting controlled substances or
6 illegal drugs.

7 Section 602. Permits.

8 (a) Application.--An application for a grower/processor or
9 dispensary permit to grow, process or dispense medical marijuana
10 shall be in a form and manner prescribed by the department and
11 shall include:

12 * * *

13 (4) A criminal history record check. Medical marijuana
14 organizations applying for a permit shall submit fingerprints
15 of principals, financial backers, operators and employees to
16 the Pennsylvania State Police for the purpose of obtaining
17 criminal history record checks and the Pennsylvania State
18 Police or its authorized agent shall submit the fingerprints
19 to the Federal Bureau of Investigation for the purpose of
20 verifying the identity of the principals, financial backers,
21 operators and employees and obtaining a current record of any
22 criminal arrests and convictions. Any criminal history record
23 information relating to principals, financial backers,
24 operators and employees obtained under this section by the
25 department may be interpreted and used by the department only
26 to determine the principal's, financial backer's, operator's
27 and employee's character, fitness and suitability to serve as
28 a principal, financial backer, operator and employee under
29 this act. The criminal history record information provided
30 under this subsection shall MAY not be subject to the <--

1 limitations under 18 Pa.C.S. § 9121(b)(2) (relating to
2 general regulations). This paragraph shall not apply to an
3 owner of securities in a publicly traded corporation if the
4 department determines that the owner of the securities is not
5 substantially involved in the activities of the medical
6 marijuana organization.

7 * * *

8 SECTION 609. RELOCATION. <--

9 (A) AUTHORIZATION.--THE DEPARTMENT MAY APPROVE AN
10 APPLICATION FROM A MEDICAL MARIJUANA ORGANIZATION TO RELOCATE
11 WITHIN THIS COMMONWEALTH OR TO ADD OR DELETE ACTIVITIES OR
12 FACILITIES.

13 (B) DESIGNATIONS.--NOTWITHSTANDING THE PROVISIONS OF
14 SUBSECTION (A), A DISPENSARY MAY INTERCHANGE THE DESIGNATION OF
15 A PRIMARY, SECONDARY OR TERTIARY LOCATION AT ANY TIME, INCLUDING
16 THE PERIOD BEFORE A LOCATION BECOMES OPERATIONAL, BY PROVIDING
17 WRITTEN NOTICE TO THE DEPARTMENT AT LEAST 14 DAYS BEFORE THE
18 CHANGE IN DESIGNATION. A CHANGE IN DESIGNATION UNDER THIS
19 SUBSECTION MAY NOT BE SUBJECT TO APPROVAL BY THE DEPARTMENT.

20 SECTION 702. GROWER/PROCESSORS.

21 (A) AUTHORIZATION.--SUBJECT TO SUBSECTION (B), A
22 GROWER/PROCESSOR MAY DO ALL OF THE FOLLOWING IN ACCORDANCE WITH
23 DEPARTMENT REGULATIONS:

24 (1) OBTAIN SEED FROM OUTSIDE THIS COMMONWEALTH TO
25 INITIALLY GROW MEDICAL MARIJUANA.

26 (2) OBTAIN SEED AND PLANT MATERIAL FROM ANOTHER
27 GROWER/PROCESSOR WITHIN THIS COMMONWEALTH TO GROW MEDICAL
28 MARIJUANA.

29 (3) REMEDIATE CONTAMINATION TO SEEDS, IMMATURE MEDICAL
30 MARIJUANA PLANTS, MEDICAL MARIJUANA PLANTS, MEDICAL MARIJUANA

1 FLOWER OR MEDICAL MARIJUANA PRODUCTS AT ANY TIME BEFORE FINAL
2 PROCESSING, AFTER A FAILED TEST OR IN PREPARING A MEDICAL
3 MARIJUANA PRODUCT FOR INDEPENDENT LABORATORY TESTING.

4 (4) RELEASE A MEDICAL MARIJUANA PRODUCT AFTER
5 INDEPENDENT LABORATORY TESTING CONCLUDES THE CONTAMINATION TO
6 THE MEDICAL MARIJUANA PRODUCT HAS BEEN REMEDIATED.

7 (5) ADD PHARMACEUTICAL-GRADE OR FOOD-GRADE ADDITIVES TO
8 MEDICAL MARIJUANA, INCLUDING HEMP OR HEMP-DERIVED
9 INGREDIENTS. HEMP OR HEMP-DERIVED INGREDIENTS UNDER THIS
10 PARAGRAPH SHALL BE OBTAINED FROM AN ENTITY THAT HAS AN
11 APPROPRIATE PERMIT FROM THE DEPARTMENT OF AGRICULTURE OF THE
12 COMMONWEALTH.

13 (B) LIMITATIONS.--

14 (1) A GROWER/PROCESSOR MAY ONLY GROW, STORE, HARVEST OR
15 PROCESS MEDICAL MARIJUANA IN AN INDOOR, ENCLOSED, SECURE
16 FACILITY WHICH:

17 (I) INCLUDES ELECTRONIC LOCKING SYSTEMS, ELECTRONIC
18 SURVEILLANCE AND OTHER FEATURES REQUIRED BY THE
19 DEPARTMENT; AND

20 (II) IS LOCATED WITHIN THIS COMMONWEALTH.

21 (2) [(RESERVED).] FOR THE PURPOSE OF PARAGRAPH (1), THE
22 DEPARTMENT SHALL PERMIT VIDEO SURVEILLANCE WITH VIDEO
23 RECORDINGS TRIGGERED VIA MOTION SENSORS. A GROWER/PROCESSOR
24 THAT UTILIZES THE VIDEO SURVEILLANCE AUTHORIZED UNDER THIS
25 PARAGRAPH SHALL RETAIN THE VIDEO RECORDINGS FOR A PERIOD OF
26 NO LESS THAN 90 DAYS.

27 (C) PESTICIDES.--THE FOLLOWING SHALL APPLY:

28 (1) A GROWER/PROCESSOR MAY USE A PESTICIDE THAT IS
29 REGISTERED BY THE DEPARTMENT OF AGRICULTURE UNDER THE ACT OF
30 MARCH 1, 1974 (P.L.90, NO.24), KNOWN AS THE PENNSYLVANIA

1 PESTICIDE CONTROL ACT OF 1973.

2 (2) NOTWITHSTANDING ANY PROVISION OF THE PENNSYLVANIA
3 PESTICIDE CONTROL ACT OF 1973 OR ANY OTHER STATE LAW OR
4 REGULATION, THE SECRETARY OF AGRICULTURE SHALL ESTABLISH
5 PROCEDURES AND OPERATE A PERIODIC PROCESS UNDER WHICH
6 PESTICIDES ARE REVIEWED, APPROVED AND REGISTERED FOR USE IN
7 THE CULTIVATION OF MEDICAL MARIJUANA.

8 (3) THE PROCEDURES ESTABLISHED BY THE SECRETARY OF
9 AGRICULTURE UNDER PARAGRAPH (2) SHALL BE CONSISTENT WITH THE
10 PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973 AND THE FEDERAL
11 INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (61 STAT. 163, 7
12 U.S.C. § 136 ET SEQ.)

13 (4) THE SECRETARY OF AGRICULTURE MAY REGISTER PESTICIDES
14 APPROVED FOR USE IN THE CULTIVATION OF MEDICAL MARIJUANA BY
15 OTHER STATES OR JURISDICTIONS IF THE SECRETARY OF AGRICULTURE
16 DETERMINES THAT THE PESTICIDE REGISTRATION AND APPROVAL
17 REQUIREMENTS OF ANOTHER STATE OR JURISDICTION ARE
18 COMPREHENSIVE, THOROUGH AND PROVIDE SIMILAR SAFEGUARDS AND
19 PROTECTIONS AS THOSE REQUIRED UNDER THE PENNSYLVANIA
20 PESTICIDE CONTROL ACT OF 1973.

21 SECTION 704. LABORATORY.

22 (A) GENERAL TESTING.--A GROWER/PROCESSOR SHALL CONTRACT WITH
23 [AN INDEPENDENT LABORATORY] ONE OR MORE INDEPENDENT LABORATORIES
24 TO TEST THE MEDICAL MARIJUANA PRODUCED BY THE GROWER/PROCESSOR.
25 THE DEPARTMENT SHALL APPROVE [THE] A LABORATORY UNDER THIS
26 SUBSECTION AND REQUIRE THAT THE LABORATORY REPORT TESTING
27 RESULTS IN A MANNER AS THE DEPARTMENT SHALL DETERMINE [,
28 INCLUDING REQUIRING A TEST AT HARVEST AND] OF A TEST AT FINAL
29 PROCESSING. THE POSSESSION BY A LABORATORY OF MEDICAL MARIJUANA
30 SHALL BE A LAWFUL USE.

1 (B) STABILITY TESTING.--A LABORATORY SHALL PERFORM STABILITY
2 TESTING TO ENSURE THE MEDICAL MARIJUANA PRODUCT'S POTENCY AND
3 PURITY. A GROWER/PROCESSOR SHALL RETAIN A SAMPLE FROM EACH
4 HARVEST BATCH OF MEDICAL MARIJUANA AND REQUEST THAT A SAMPLE BE
5 IDENTIFIED AND COLLECTED BY A LABORATORY APPROVED UNDER
6 SUBSECTION (A) FROM A HARVEST BATCH TO PERFORM STABILITY TESTING
7 UNDER THE FOLLOWING CONDITIONS:

8 (1) THE HARVEST BATCH OF MEDICAL MARIJUANA IS STILL IN
9 INVENTORY AT A DISPENSARY IN THIS COMMONWEALTH.

10 (2) THE STABILITY TESTING IS DONE AT SIX-MONTH INTERVALS
11 FOR THE DURATION OF THE EXPIRATION DATE PERIOD AS LISTED ON
12 THE MEDICAL MARIJUANA PRODUCT.

13 Section 801. Dispensing to patients and caregivers.

14 * * *

15 (e) Supply.--When dispensing medical marijuana to a patient
16 or caregiver, the dispensary may not dispense an amount greater
17 than a [30-day] 90-day supply until the patient has exhausted
18 all but a seven-day supply provided pursuant to a previously
19 issued certification until additional certification is presented
20 under section 405.

21 * * *

22 Section 802. Facility requirements.

23 (a) General rule.--

24 (1) A dispensary may [only] dispense medical marijuana
25 in an indoor, enclosed, secure facility located within this
26 Commonwealth[,] or in accordance with a curbside delivery
27 protocol as determined by the department.

28 * * *

29 Section 2109. Applicability.

30 [(a) Dispensaries.--The provisions of this act with respect

1 to dispensaries shall not apply beginning 1,095 days from the
2 effective date of an amendment to the Controlled Substances Act
3 (Public Law 91-513, 84 Stat. 1236) removing marijuana from
4 Schedule I of the Controlled Substances Act.]

5 * * *

6 Section 3. This act shall take effect in 60 days.