

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1024 Session of 2021

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 26, 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 CONFIDENTIALITY AND PUBLIC DISCLOSURE <--
15 AND FOR lawful use of medical marijuana; in practitioners,
16 further providing for duration; in patients, further
17 providing for caregivers; in medical marijuana organizations,
18 further providing for permits and, for relocation AND FOR <--
19 CONVICTIONS PROHIBITED; in medical marijuana controls,
20 further providing for ELECTRONIC TRACKING, FOR <--
21 grower/processor, FOR STORAGE AND TRANSPORTATION and for <--
22 laboratory; in dispensaries, further providing for dispensing
23 to patients and caregivers and for facility requirements;
24 and, in miscellaneous provisions, further providing for
25 applicability.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. The definitions of "caregiver" and "continuing

1 care" in section 103 of the act of April 17, 2016 (P.L.84,
2 No.16), known as the Medical Marijuana Act, are amended and the
3 section is amended by adding a definition to read:

4 Section 103. Definitions.

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

8 * * *

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

12 * * *

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

17 * * *

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

22 * * *

23 Section 2. Sections 302(B), 303(b)(4), 405, 502(b), 602(a) <--
24 (4), 609 AND 614, ~~702, 704, 801(e), 802(a)(1) and 2109(a)~~ of the <--
25 act are amended to read:

26 SECTION 302. CONFIDENTIALITY AND PUBLIC DISCLOSURE. <--

27 * * *

28 (B) PUBLIC INFORMATION.--THE FOLLOWING RECORDS ARE PUBLIC
29 RECORDS AND SHALL BE SUBJECT TO THE RIGHT-TO-KNOW LAW:

30 (1) APPLICATIONS FOR PERMITS SUBMITTED BY MEDICAL

1 MARIJUANA ORGANIZATIONS.

2 (2) THE NAMES, BUSINESS ADDRESSES AND MEDICAL
3 CREDENTIALS OF PRACTITIONERS AUTHORIZED TO PROVIDE
4 CERTIFICATIONS TO PATIENTS TO ENABLE THEM TO OBTAIN AND USE
5 MEDICAL MARIJUANA IN THIS COMMONWEALTH. ALL OTHER
6 PRACTITIONER REGISTRATION INFORMATION SHALL BE CONFIDENTIAL
7 AND EXEMPT FROM PUBLIC DISCLOSURE UNDER THE RIGHT-TO-KNOW
8 LAW.

9 (3) INFORMATION RELATING TO PENALTIES OR OTHER
10 DISCIPLINARY ACTIONS TAKEN AGAINST A MEDICAL MARIJUANA
11 ORGANIZATION OR PRACTITIONER BY THE DEPARTMENT FOR VIOLATION
12 OF THIS ACT.

13 (4) THE NAMES OF THE INDIVIDUALS RETAINED BY THE
14 DEPARTMENT TO REVIEW APPLICATIONS SUBMITTED BY A MEDICAL
15 MARIJUANA ORGANIZATION SEEKING A PERMIT.

16 Section 303. Lawful use of medical marijuana.

17 * * *

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

20 * * *

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

23 * * *

24 Section 405. Duration.

25 Receipt of medical marijuana by a patient or caregiver from a
26 dispensary may not exceed a [30-day] 90-day supply of individual
27 doses. During the last seven days of any 30-day period during
28 the term of the identification card, a patient may obtain and
29 possess a [30-day] 90-day supply for the subsequent 30-day
30 period. Additional [30-day] 90-day supplies may be provided in

1 accordance with this section for the duration of the authorized
2 period of the identification card unless a shorter period is
3 indicated on the certification.

4 Section 502. Caregivers.

5 * * *

6 (b) Criminal history.--A caregiver who has not been
7 previously approved by the department under this section shall
8 submit fingerprints for the purpose of obtaining criminal
9 history record checks, and the Pennsylvania State Police or its
10 authorized agent shall submit the fingerprints to the Federal
11 Bureau of Investigation for the purpose of verifying the
12 identity of the applicant and obtaining a current record of any
13 criminal arrests and convictions. Any criminal history record
14 information relating to a caregiver obtained under this section
15 by the department may be interpreted and used by the department
16 only to determine the applicant's character, fitness and
17 suitability to serve as a caregiver under this act. The criminal
18 history record information provided under this subsection may
19 not be subject to the limitations under 18 Pa.C.S. § 9121(b)(2)
20 (relating to general regulations). The department shall also
21 review the prescription drug monitoring program relating to the
22 caregiver. The department shall deny the application of a
23 caregiver who has been convicted of a criminal offense that
24 occurred within the past five years relating to the sale or
25 possession of drugs, narcotics or controlled substances. The
26 department may deny an application if the applicant has a
27 history of drug abuse or of diverting controlled substances or
28 illegal drugs.

29 Section 602. Permits.

30 (a) Application.--An application for a grower/processor or

1 dispensary permit to grow, process or dispense medical marijuana
2 shall be in a form and manner prescribed by the department and
3 shall include:

4 * * *

5 (4) A criminal history record check. Medical marijuana
6 organizations applying for a permit shall submit fingerprints
7 of principals, financial backers, operators and employees to
8 the Pennsylvania State Police for the purpose of obtaining
9 criminal history record checks and the Pennsylvania State
10 Police or its authorized agent shall submit the fingerprints
11 to the Federal Bureau of Investigation for the purpose of
12 verifying the identity of the principals, financial backers,
13 operators and employees and obtaining a current record of any
14 criminal arrests and convictions. Any criminal history record
15 information relating to principals, financial backers,
16 operators and employees obtained under this section by the
17 department may be interpreted and used by the department only
18 to determine the principal's, financial backer's, operator's
19 and employee's character, fitness and suitability to serve as
20 a principal, financial backer, operator and employee under
21 this act. The criminal history record information provided
22 under this subsection may not be subject to the limitations
23 under 18 Pa.C.S. § 9121(b) (2) (relating to general
24 regulations). This paragraph shall not apply to an owner of
25 securities in a publicly traded corporation OR AN OWNER OF 5% <--
26 OR LESS IN A PRIVATELY HELD BUSINESS ENTITY if the department
27 determines that the owner of the securities is not
28 substantially involved in the activities of the medical
29 marijuana organization.

30 * * *

1 Section 609. Relocation.

2 (a) Authorization.--The department may approve an
3 application from a medical marijuana organization to relocate
4 within this Commonwealth or to add or delete activities or
5 facilities.

6 (b) Designations.--Notwithstanding the provisions of
7 subsection (a), a dispensary may interchange the designation of
8 a primary, secondary or tertiary location at any time, including
9 the period before a location becomes operational, by providing
10 written notice to the department at least 14 days before the
11 change in designation. A change in designation under this
12 subsection may not be subject to approval by the department.

13 SECTION 614. CONVICTIONS PROHIBITED. <--

14 THE FOLLOWING INDIVIDUALS MAY NOT HOLD VOLUNTEER POSITIONS OR
15 POSITIONS WITH REMUNERATION IN OR BE AFFILIATED WITH A MEDICAL
16 MARIJUANA ORGANIZATION, INCLUDING A CLINICAL REGISTRANT UNDER
17 CHAPTER 20, IN ANY WAY IF THE INDIVIDUAL HAS BEEN CONVICTED OF
18 ANY FELONY CRIMINAL OFFENSE RELATED TO THE SALE OR POSSESSION OF
19 ILLEGAL DRUGS, NARCOTICS OR CONTROLLED SUBSTANCES:

- 20 (1) FINANCIAL BACKERS.
21 (2) PRINCIPALS.
22 (3) EMPLOYEES.

23 SECTION 3. SECTION 701 OF THE ACT IS AMENDED BY ADDING A
24 SUBSECTION TO READ:

25 SECTION 701. ELECTRONIC TRACKING.

26 * * *

27 (C.1) APPLICATION PROGRAMMING INTERFACE.--THE DEPARTMENT AND
28 OR THE DEPARTMENT'S CONTRACTED SEED-TO-SALE VENDOR SHALL ALLOW
29 TWO-WAY COMMUNICATION AND APPLICATION-PROGRAMMING INTERFACE OF A
30 MEDICAL MARIJUANA ORGANIZATION'S INVENTORY, ACCOUNTING AND

1 POINT-OF-SALE SOFTWARE WITH THE SOFTWARE OF THE DEPARTMENT OR
2 THE DEPARTMENT'S CONTRACTED SEED-TO-SALE VENDOR. THE DEPARTMENT
3 OR THE DEPARTMENT'S CONTRACTED SEED-TO-SALE VENDOR SHALL PROVIDE
4 FOR THE DEVELOPMENT AND USE OF A SEED-TO-SALE CANNABIS TRACKING
5 SYSTEM, WHICH SHALL INCLUDE A SECURE APPLICATION PROGRAM
6 INTERFACE CAPABLE OF ACCESSING ALL DATA REQUIRED TO BE
7 TRANSMITTED TO THE ADVISORY BOARD TO ENSURE COMPLIANCE WITH THE
8 OPERATIONAL REPORTING REQUIREMENTS ESTABLISHED UNDER THIS ACT
9 AND THE REGULATIONS OF THE ADVISORY BOARD.

10 * * *

11 SECTION 4. SECTIONS 702, 703(8), 704, 801(E), 802(A)(1) AND
12 2109(A) OF THE ACT ARE AMENDED TO READ:

13 Section 702. Grower/processors.

14 (a) Authorization.--Subject to subsection (b), a
15 grower/processor may do all of the following in accordance with
16 department regulations:

17 (1) Obtain seed AND IMMATURE PLANT MATERIAL from outside <--
18 this Commonwealth DURING AT LEAST ONE 30-DAY PERIOD PER YEAR <--
19 AS DESIGNATED BY THE DEPARTMENT to [initially] grow medical <--
20 marijuana.

21 (2) Obtain seed and plant material from another
22 grower/processor within this Commonwealth to grow medical
23 marijuana.

24 (2.1) OBTAIN POSTHARVEST PLANT MATERIAL FROM ANOTHER <--
25 GROWER/PROCESSOR WITHIN THIS COMMONWEALTH. AS USED IN THIS
26 PARAGRAPH, THE TERM "POSTHARVEST PLANT MATERIAL" INCLUDES ALL
27 UNFINISHED PLANT AND PLANT-DERIVED MATERIAL, WHETHER FRESH,
28 DRIED, PARTIALLY DRIED, FROZEN OR PARTIALLY FROZEN, OIL,
29 CONCENTRATE OR SIMILAR BYPRODUCTS DERIVED FROM MEDICAL
30 MARIJUANA. THE DEPARTMENT SHALL ESTABLISH A PROCESS TO

1 IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH WITHIN 60 DAYS OF
2 THE EFFECTIVE DATE OF THIS PARAGRAPH.

3 (3) Remediate contamination to seeds, immature medical
4 marijuana plants, medical marijuana plants, medical marijuana
5 flower or medical marijuana products at any time before final
6 processing, after a failed test or in preparing a medical
7 marijuana product for independent laboratory testing.

8 (4) Release a medical marijuana product after
9 independent laboratory testing concludes the contamination to
10 the medical marijuana product has been remediated.

11 (5) Add pharmaceutical-grade or food-grade additives to
12 medical marijuana, including hemp or hemp-derived
13 ingredients. Hemp or hemp-derived ingredients under this
14 paragraph shall be obtained from an entity that has an
15 appropriate permit from the Department of Agriculture of the
16 Commonwealth.

17 (b) Limitations.--

18 (1) A grower/processor may only grow, store, harvest or
19 process medical marijuana in an indoor, enclosed, secure
20 facility which:

21 (i) includes electronic locking systems, electronic
22 surveillance and other features required by the
23 department; and

24 (ii) is located within this Commonwealth.

25 (2) [(Reserved).] For the purpose of paragraph (1), the
26 department shall permit video surveillance with video
27 recordings triggered via motion sensors. A grower/processor
28 that utilizes the video surveillance authorized under this
29 paragraph shall retain the video recordings for a period of
30 no less than 90 days.

1 (c) Pesticides.--The following shall apply:

2 (1) A grower/processor may use a pesticide that is
3 registered by the Department of Agriculture under the act of
4 March 1, 1974 (P.L.90, No.24), known as the Pennsylvania
5 Pesticide Control Act of 1973.

6 (2) Notwithstanding any provision of the Pennsylvania
7 Pesticide Control Act of 1973 or any other State law or
8 regulation, the Secretary of Agriculture shall establish
9 procedures and operate a periodic process under which
10 pesticides are reviewed, approved and registered for use in
11 the cultivation of medical marijuana.

12 (3) The procedures established by the Secretary of
13 Agriculture under paragraph (2) shall be consistent with the
14 Pennsylvania Pesticide Control Act of 1973 and the Federal
15 Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163, 7
16 U.S.C. § 136 et seq.)

17 (4) The Secretary of Agriculture may register pesticides
18 approved for use in the cultivation of medical marijuana by
19 other states or jurisdictions if the Secretary of Agriculture
20 determines that the pesticide registration and approval
21 requirements of another state or jurisdiction are
22 comprehensive, thorough and provide similar safeguards and
23 protections as those required under the Pennsylvania
24 Pesticide Control Act of 1973.

25 SECTION 703. STORAGE AND TRANSPORTATION. <--

26 THE DEPARTMENT SHALL DEVELOP REGULATIONS RELATING TO THE
27 STORAGE AND TRANSPORTATION OF MEDICAL MARIJUANA AMONG
28 GROWER/PROCESSORS, TESTING LABORATORIES AND DISPENSARIES WHICH
29 ENSURE ADEQUATE SECURITY TO GUARD AGAINST IN-TRANSIT LOSSES. THE
30 TRACKING SYSTEM DEVELOPED BY THE DEPARTMENT SHALL INCLUDE ALL

1 TRANSPORTATION AND STORAGE OF MEDICAL MARIJUANA. THE REGULATIONS
2 SHALL PROVIDE FOR THE FOLLOWING:

3 * * *

4 (8) REQUIREMENTS TO UTILIZE ANY ELECTRONIC TRACKING
5 SYSTEM REQUIRED BY THE DEPARTMENT, WHICH SHALL ALLOW FOR THE
6 TWO-WAY COMMUNICATION AND APPLICATION-PROGRAMMING INTERFACE
7 BETWEEN A MEDICAL MARIJUANA ORGANIZATION'S INVENTORY,
8 ACCOUNTING AND POINT-OF-SALE SOFTWARE AND THE SOFTWARE OF THE
9 DEPARTMENT OR THE DEPARTMENT'S VENDOR.

10 * * *

11 Section 704. Laboratory.

12 (a) General testing.--A grower/processor shall contract with
13 [an independent laboratory] one or more independent laboratories
14 to test the medical marijuana produced by the grower/processor.
15 The department shall approve [the] a laboratory under this
16 subsection and require that the laboratory report testing
17 results in a manner as the department shall determine[,
18 including requiring a test at harvest and] of a test at final
19 processing. The possession by a laboratory of medical marijuana
20 shall be a lawful use.

21 (b) Stability testing.--A laboratory shall perform stability
22 testing to ensure the medical marijuana product's potency and
23 purity. A grower/processor shall retain a sample from each
24 harvest batch of medical marijuana and request that a sample be
25 identified and collected by a laboratory approved under
26 subsection (a) from a harvest batch to perform stability testing
27 under the following conditions:

28 (1) The harvest batch of medical marijuana is still in
29 inventory at a dispensary in this Commonwealth.

30 (2) The stability testing is done at six-month intervals

1 for the duration of the expiration date period as listed on
2 the medical marijuana product.

3 Section 801. Dispensing to patients and caregivers.

4 * * *

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

11 * * *

12 Section 802. Facility requirements.

13 (a) General rule.--

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

18 * * *

19 Section 2109. Applicability.

20 [(a) Dispensaries.--The provisions of this act with respect
21 to dispensaries shall not apply beginning 1,095 days from the
22 effective date of an amendment to the Controlled Substances Act
23 (Public Law 91-513, 84 Stat. 1236) removing marijuana from
24 Schedule I of the Controlled Substances Act.]

25 * * *

26 Section 3 5. This act shall take effect in 60 days.

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