

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2035 Session of 2021

INTRODUCED BY SHUSTERMAN, SANCHEZ, HILL-EVANS, McNEILL, PARKER, KENYATTA, ROZZI, KINSEY, FRANKEL, ZIMMERMAN, LONGIETTI, MALAGARI, GUENST, N. NELSON AND MADDEN, OCTOBER 29, 2021

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 29, 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," adding and  
 13 amending provisions relating to farmer-growers by, in  
 14 preliminary provisions, further providing for definitions; in  
 15 program, further providing for program established and for  
 16 unlawful use of medical marijuana; in medical marijuana  
 17 organizations, further providing for medical marijuana  
 18 organizations, for permits, for granting of permit, for  
 19 application and issuance, for fees and other requirements and  
 20 for limitations on permits; in medical marijuana controls,  
 21 further providing for electronic tracking, providing for  
 22 farmer-growers and further providing for storage and  
 23 transportation; in tax on medical marijuana, further  
 24 providing for tax on medical marijuana; in Medical Marijuana  
 25 Advisory Board, further providing for advisory board; in  
 26 academic clinical research centers and clinical registrants,  
 27 further providing for clinical registrants; and, in  
 28 miscellaneous provisions, further providing for zoning.

29 The General Assembly of the Commonwealth of Pennsylvania

30 hereby enacts as follows:

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

5 Section 103. Definitions.

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

9 \* \* \*

10 "Farmer-grower." A person, including a natural person,  
11 corporation, partnership, association, trust or other entity, or  
12 any combination thereof, which holds a farmer-grower permit from  
13 the department under this act to grow medical marijuana. The  
14 term does not include a health care medical marijuana  
15 organization under Chapter 19.

16 \* \* \*

17 "Medical marijuana organization." A dispensary, farmer-  
18 grower or a grower/processor. The term does not include a health  
19 care medical marijuana organization under Chapter 19.

20 \* \* \*

21 Section 2. Sections 301(a)(8), 304(b)(3), 601, 602(a)  
22 introductory paragraph and (1), 603(a) and (d) and 606(a)  
23 introductory paragraph of the act are amended to read:

24 Section 301. Program established.

25 (a) Establishment.--A medical marijuana program for patients  
26 suffering from serious medical conditions is established. The  
27 program shall be implemented and administered by the department.  
28 The department shall:

29 \* \* \*

30 (8) Develop enforcement procedures, including announced

1 and unannounced inspections of facilities of the  
2 grower/processors, farmer-growers and dispensaries and all  
3 records of the medical marijuana organizations.

4 \* \* \*

5 Section 304. Unlawful use of medical marijuana.

6 \* \* \*

7 (b) Unlawful use described.--It is unlawful to:

8 \* \* \*

9 (3) Grow medical marijuana unless the grower/processor  
10 or farmer-grower has received a permit from the department  
11 under this act.

12 \* \* \*

13 Section 601. Medical marijuana organizations.

14 The following entities shall be authorized to receive a  
15 permit to operate as a medical marijuana organization to grow,  
16 process or dispense medical marijuana:

17 (1) Grower/processors.

18 (2) Dispensaries.

19 (3) Farmer-growers.

20 Section 602. Permits.

21 (a) Application.--An application for a grower/processor,  
22 farmer-grower or dispensary permit to grow, process or dispense  
23 medical marijuana shall be in a form and manner prescribed by  
24 the department and shall include:

25 (1) Verification of all principals, operators, financial  
26 backers or employees of a medical marijuana grower/processor,  
27 farmer-grower or dispensary.

28 \* \* \*

29 Section 603. Granting of permit.

30 (a) General rule.--The department may grant or deny a permit

1 to a grower/processor, farmer-grower or dispensary.

2 \* \* \*

3 (d) Regions.--The department shall establish a minimum of  
4 three regions within this Commonwealth for the purpose of  
5 granting permits to grower/processors, farmer-growers and  
6 dispensaries and enforcing this act. The department shall  
7 approve permits for grower/processors and dispensaries in a  
8 manner which will provide an adequate amount of medical  
9 marijuana to patients and caregivers in all areas of this  
10 Commonwealth. The department shall consider the following when  
11 issuing a permit:

12 (1) Regional population.

13 (2) The number of patients suffering from serious  
14 medical conditions.

15 (3) The types of serious medical conditions.

16 (4) Access to public transportation.

17 (5) Any other factor the department deems relevant.

18 Section 606. Application and issuance.

19 (a) Duty to report.--An applicant to be a grower/processor  
20 or farmer-grower or to operate a dispensary is under a  
21 continuing duty to:

22 \* \* \*

23 Section 3. Section 607 of the act is amended by adding a  
24 paragraph to read:

25 Section 607. Fees and other requirements.

26 The following apply:

27 \* \* \*

28 (2.1) For a farmer-grower:

29 (i) An initial application fee in the amount of  
30 \$2,500 shall be paid. The fee is nonrefundable.

1           (ii) A fee for a permit as a farmer-grower in the  
2           amount of \$2,500 shall be paid. The permit shall be valid  
3           for one year. Applicants shall submit the permit fee at  
4           the time of submission of the application. The fee shall  
5           be returned if the permit is not granted.

6           (iii) A renewal fee for the permit as a  
7           grower/processor in the amount of \$2,500 shall be paid  
8           and shall cover renewal for all locations. The renewal  
9           fee shall be returned if the renewal is not granted.

10          (iv) An application to renew a permit must be filed  
11          with the department not more than six months nor less  
12          than four months prior to expiration.

13          (v) All fees shall be paid by certified check or  
14          money order.

15          (vi) Before issuing an initial permit under this  
16          paragraph, the department shall verify that the applicant  
17          has enough capital as determined by the department, which  
18          must be on deposit with a financial institution.

19          \* \* \*

20          Section 4. Section 616 introductory paragraph of the act is  
21          amended and the section is amended by adding paragraphs to read:  
22          Section 616. Limitations on permits.

23          The following limitations apply to approval of permits for  
24          grower/processors, farmer-growers and dispensaries:

25          \* \* \*

26          (8) The department shall promulgate regulations  
27          initially limiting the number of farmer-grower permits issued  
28          under this act. The number of farmer-grower permits issued  
29          shall be determined by the department.

30          (9) The department may not issue more than one

1 individual farmer-grower permit to one person.

2 (10) A farmer-grower may only provide medical marijuana  
3 to a grower/processor holding a valid permit under this act.

4 Section 5. Section 701(d) introductory paragraph of the act  
5 is amended, subsections (a) and (d) are amended by adding  
6 paragraphs and the section is amended by adding a subsection to  
7 read:

8 Section 701. Electronic tracking.

9 (a) Requirement.--A grower/processor or dispensary must  
10 implement an electronic inventory tracking system which shall be  
11 directly accessible to the department through its electronic  
12 database that electronically tracks all medical marijuana on a  
13 daily basis. The system shall include tracking of all of the  
14 following:

15 \* \* \*

16 (6) For a grower/processor, a purchase-to-sale tracking  
17 system that tracks medical marijuana procured from a farmer-  
18 grower for processing until the medical marijuana is sold to  
19 a dispensary.

20 (a.1) Requirement for farmer-growers.--A farmer-grower must  
21 implement an inventory tracking system which shall be accessible  
22 to the department. The system shall include tracking of all of  
23 the following:

24 (1) The number of medical marijuana plants located on a  
25 site used for growing or cultivating medical marijuana.

26 (2) The number of medical marijuana plants located on a  
27 site used for growing or cultivating medical marijuana that  
28 have been successfully cultivated for sale to a  
29 grower/processor.

30 (3) The number of medical marijuana plants located on a

1 site used for growing or cultivating medical marijuana that  
2 are unfit for cultivation and marked for disposal as plant  
3 waste.

4 (4) A system to track the plant waste resulting from the  
5 growth of medical marijuana or other disposal, including the  
6 name and address of any disposal service.

7 (5) A weekly log of each week's beginning inventory,  
8 acquisitions, amounts sold, disbursements, disposals and  
9 ending inventory. The tracking system shall include prices  
10 paid and amounts collected from grower/processors.

11 (6) Sites used for growing or cultivating medical  
12 marijuana must be certified, inspected and permitted by and  
13 registered with the department. The failure to permit  
14 inspection by the department shall be a violation of this  
15 chapter.

16 \* \* \*

17 (d) Reports.--Within one year of the issuance of the first  
18 permit to a grower/processor, farmer-grower or dispensary, and  
19 every three months thereafter in a form and manner prescribed by  
20 the department, the following information shall be provided to  
21 the department, which shall compile the information and post it  
22 on the department's publicly accessible Internet website:

23 \* \* \*

24 (2.1) The amount of medical marijuana sold by a farmer-  
25 grower during each three-month period.

26 (2.2) The price of amounts of medical marijuana sold by  
27 a farmer-grower as determined by the department.

28 \* \* \*

29 Section 6. The act is amended by adding a section to read:  
30 Section 702.1. Farmer-growers.

1 (a) Authorization.--Subject to subsection (b), a farmer-  
2 grower may obtain seed and plant material from a  
3 grower/processor within this Commonwealth to grow medical  
4 marijuana in accordance with department regulations.

5 (b) Limitations.--A farmer-grower may only grow, store or  
6 harvest medical marijuana in an enclosed, secure area which:

7 (1) is delineated to a single site at the address  
8 identified on the permit issued by the department;

9 (2) does not exceed two acres of land;

10 (3) includes locking systems and other security and  
11 surveillance features required by the department; and

12 (4) is located within this Commonwealth.

13 Section 7. Sections 703 introductory paragraph and (9),  
14 901(a) and (f), 1201(j) (5) (iv), 2002(b) (8) and 2107 of the act  
15 are amended to read:

16 Section 703. Storage and transportation.

17 The department shall develop regulations relating to the  
18 storage and transportation of medical marijuana among  
19 grower/processors and farmer-growers, testing laboratories and  
20 dispensaries which ensure adequate security to guard against in-  
21 transit losses. The tracking system developed by the department  
22 shall include all transportation and storage of medical  
23 marijuana. The regulations shall provide for the following:

24 \* \* \*

25 (9) Transporting medical marijuana to a grower/processor  
26 or farmer-grower, approved laboratory or dispensary.

27 Section 901. Tax on medical marijuana.

28 (a) Tax imposed.--A tax is imposed on the gross receipts of  
29 a grower/processor received from the sale of medical marijuana  
30 by a grower/processor to a dispensary, to be paid by the



1 grower/processor, at the rate of 5%[.], unless the medical  
2 marijuana was purchased from a farmer-grower, in which case the  
3 tax imposed on the gross receipts shall be at a rate of 1%. The  
4 tax shall be charged against and be paid by the grower/processor  
5 and shall not be added as a separate charge or line item on any  
6 sales slip, invoice, receipt or other statement or memorandum of  
7 the price paid by a dispensary, patient or caregiver.

8 \* \* \*

9 (f) Information.--A grower/processor or farmer-grower that  
10 sells medical marijuana shall provide to the Department of  
11 Revenue information required by the department.

12 Section 1201. Advisory board.

13 \* \* \*

14 (j) Duties.--The advisory board shall have the following  
15 duties:

16 \* \* \*

17 (5) The written report under paragraph (4) shall include  
18 recommendations and findings as to the following:

19 \* \* \*

20 (iv) Whether to change, add or reduce the number of  
21 growers/processors, farmer-growers or dispensaries.

22 \* \* \*

23 Section 2002. Clinical registrants.

24 \* \* \*

25 (b) Requirements.--The following shall apply to clinical  
26 registrants:

27 \* \* \*

28 (8) A grower/processor facility owned by a clinical  
29 registrant may sell its medical marijuana products only to  
30 the clinical registrant's dispensary facilities and the

1 dispensary facilities of other clinical registrants. The  
2 facility may sell seeds, medical marijuana plants and medical  
3 marijuana products to, or exchange seeds, medical marijuana  
4 plants and medical marijuana products with, any other  
5 grower/processor facility or farmer-grower holding a permit  
6 under Chapter 6 or this chapter.

7 \* \* \*

8 Section 2107. Zoning.

9 The following apply:

10 (1) A grower/processor shall meet the same municipal  
11 zoning and land use requirements as other manufacturing,  
12 processing and production facilities that are located in the  
13 same zoning district.

14 (1.1) A farmer-grower shall meet the same municipal  
15 zoning and land use requirements as other agricultural  
16 operations that are located in the same zoning district.

17 (2) A dispensary shall meet the same municipal zoning  
18 and land use requirements as other commercial facilities that  
19 are located in the same zoning district.

20 Section 8. This act shall take effect in 60 days.