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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 773 Session of  
2023

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INTRODUCED BY GEBHARD, STEFANO, BARTOLOTTA, ROBINSON, COSTA,  
CULVER, LAUGHLIN AND LANGERHOLC, JUNE 8, 2023

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REFERRED TO LAW AND JUSTICE, JUNE 8, 2023

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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; and, in  
14 medical marijuana organizations, further providing for  
15 limitations on permits and providing for additional  
16 dispensary permits authorized, for application and issuance  
17 of additional dispensary permits and for limitations on other  
18 additional permits or licenses.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. Section 103 of the act of April 17, 2016 (P.L.84,  
22 No.16), known as the Medical Marijuana Act, is amended by adding  
23 definitions to read:

24 Section 103. Definitions.

25 The following words and phrases when used in this act shall  
26 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

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

6 (1) a medical marijuana organization's securities or  
7 other ownership interests, with the exception of any  
8 ownership interest of the person that existed at the time of  
9 the issuance of the initial medical marijuana organization's  
10 permit and payment of the initial permit; or

11 (2) the securities or other ownership interests of a  
12 corporation or other form of business entity which owns  
13 directly or indirectly 20% of the securities or other  
14 ownership interests of the medical marijuana organization.

15 \* \* \*

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

19 (1) Has not had its permit revoked.

20 (2) Has not entered into a merger, acquisition or other  
21 change of control transaction with any other entity that was  
22 awarded a grower/processor permit, a dispensary permit or a  
23 clinical registrant permit in this Commonwealth.

24 (3) Is not otherwise associated with or materially the  
25 same as another medical marijuana organization in this  
26 Commonwealth through a parent company or subsidiary of  
27 another entity that holds a permit from the department under  
28 this act or through the sharing of officers or directors,  
29 employees, facilities, equipment, finances or capital.

30 \* \* \*

1 "Materially the same." A person who shares any of the  
2 following with another person:

3 (1) Profits or losses.

4 (2) Common valuation, in the case of a publicly traded  
5 company.

6 (3) Common ownership of 5% or greater, including  
7 subsidiaries.

8 \* \* \*

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

11 \* \* \*

12 "Person." A natural person, corporation, foundation,  
13 organization, business trust, estate, limited liability company,  
14 licensed corporation, trust, partnership, limited liability  
15 partnership, association or other form of legal business entity.

16 \* \* \*

17 Section 2. Section 616(5) of the act is amended to read:  
18 Section 616. Limitations on permits.

19 The following limitations apply to approval of permits for  
20 grower/processors and dispensaries:

21 \* \* \*

22 (5) [No] Except as provided under section 617, no more  
23 than five grower/processors may be issued permits as  
24 dispensaries. If the number of growers/processors is  
25 increased under section 1202, no more than 20% of the total  
26 number of growers/processors may also be issued permits as  
27 dispensaries.

28 \* \* \*

29 Section 3. The act is amended by adding sections to read:  
30 Section 617. Additional dispensary permits authorized.

1 (a) Authorization.--An independent grower/processor that  
2 applies and meets the requirements under section 618 shall be  
3 issued two dispensary permits.

4 (b) Rights and privileges.--The dispensary permits issued  
5 under this section shall have all the rights and privileges  
6 afforded to dispensaries operating as medical marijuana  
7 organizations under section 601(2).

8 (c) Suspension or revocation prohibited.--The department may  
9 not suspend, revoke or withdraw a permit or fail to renew the  
10 permit of an entity that receives a dispensary permit under this  
11 section due to the entity ceasing to qualify as an independent  
12 grower/processor after the holder of the dispensary permit  
13 becomes operational in this Commonwealth.

14 Section 618. Application and issuance of additional dispensary  
15 permits.

16 (a) Applications.--

17 (1) The department shall develop a standard application  
18 form and make the form available to independent  
19 grower/processors that apply for dispensary permits  
20 authorized under section 617.

21 (2) The department shall, within 30 days of the  
22 effective date of this paragraph, accept applications from  
23 independent grower/processors for dispensary permits  
24 authorized under section 617.

25 (3) The department shall review applications for  
26 dispensary permits authorized under section 617 within 30  
27 days of receipt of an application under paragraph (1) from an  
28 eligible independent grower/processor.

29 (b) Issuance.--

30 (1) The department shall issue dispensary permits within

1 15 days of review of applications received under this section  
2 to all applicants that meet the minimum requirements for  
3 permitting. The department shall notify an applicant for  
4 dispensary permits authorized under section 617 of the  
5 approval of an application by certified mail or email.

6 (2) If an applicant under this section does not meet the  
7 minimum criteria for permitting, the department shall notify  
8 the applicant by certified mail or email within 15 days of  
9 review of the application which shall include deficiencies in  
10 the application and unmet requirements.

11 (3) If the department denies an application for  
12 dispensary permits authorized under section 617, no later  
13 than 15 days after completing the review under subsection (a)  
14 (2), the department shall notify the applicant of the denial  
15 by certified mail or email. The notice shall include each  
16 deficiency in the application that does not meet the  
17 requirements to be issued a permit under this act.

18 (4) If the department determines that an application is  
19 complete but lacks sufficient information upon which to make  
20 a determination, the department shall notify the applicant in  
21 writing of the factors that require additional information  
22 and documentation. The following apply:

23 (i) Except as provided under subparagraph (iv), an  
24 applicant has 30 days from the mailing date of the notice  
25 under this paragraph to provide the requested information  
26 and documentation to the department.

27 (ii) An applicant's failure to provide the requested  
28 information to the department by the deadline may be  
29 grounds for denial of the issuance of the dispensary  
30 permit.

1           (iii) Nothing in this paragraph requires the  
2           department to request additional or supplemental  
3           information from an applicant if the application is  
4           deemed complete under paragraph (1).

5           (iv) Upon showing of good cause, the department may  
6           extend the deadline in subparagraph (i) one time for up  
7           to an additional 15 days.

8           (v) The department shall issue the dispensary permit  
9           within 15 days of receipt of the requested information or  
10           documentation required to make a determination.

11           (5) Upon request for inspection or reinspection for an  
12           operational certificate, the department shall inspect the  
13           dispensary location within 30 days of request by certified  
14           mail or email.

15           (6) Appeals to the issuance or denials of dispensary  
16           permits under this section must be responded to by the  
17           department within 30 days of submittal.

18           (c) Fees.--An independent grower/processor applying for a  
19           dispensary permit under this section shall remit at the time of  
20           application:

21           (1) A nonrefundable application review fee in the amount  
22           of \$5,000. A subsequent application for a denied application  
23           under this section shall not incur an additional application  
24           review fee.

25           (2) A permitting fee in the amount of \$30,000 which  
26           shall be considered earned by the department upon the  
27           issuance of a dispensary permit. The permitting fee shall be  
28           held by the department until a dispensary permit is issued by  
29           the department or the applicant notifies the department by  
30           certified mail or email that the applicant is abandoning the

1 application and that the applicant requests the return of the  
2 \$30,000 permitting fee.

3 (d) Regions.--

4 (1) An independent grower/processor may apply for a  
5 dispensary permit under this section in any region  
6 established under section 603(d).

7 (2) The department may limit the number of dispensary  
8 permits issued under this section to each independent  
9 grower/processor in accordance with the following:

10 (i) The department may limit the number of  
11 dispensary permits issued under this section to one  
12 dispensary permit per independent grower/processor for  
13 any region established under section 603(d).

14 (ii) If a single independent grower/processor  
15 applies for two dispensary permits in the same region  
16 established under section 603(d) and the department  
17 determines that issuing the dispensary permits to the  
18 applicant would not be in the best interests of medical  
19 marijuana patients, the department shall notify the  
20 applicant within seven days of the department's  
21 determination and allow the applicant to submit a new  
22 application for a different region without remittance of  
23 an additional application review fee under subsection (c)  
24 (1).

25 (iii) Nothing in this paragraph shall be construed  
26 to modify the allowable dispensary permits for each  
27 independent grower/processor under section 617.

28 Section 619. Limitations on other additional permits or  
29 licenses.

30 Notwithstanding the provisions of section 617 or 618, nothing

1 in section 617 or 618 shall be construed to limit an entity that  
2 qualifies as an independent grower/processor from applying for  
3 and receiving additional permits or licenses under any other  
4 provisions of this act upon the release of additional permits or  
5 licenses by the department or the Commonwealth.

6 Section 4. This act shall take effect in 60 days.