

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of 2023

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

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 19, 2023

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; AND, IN ACADEMIC CLINICAL
19 RESEARCH CENTERS AND CLINICAL REGISTRANTS, FURTHER PROVIDING
20 FOR DEFINITIONS.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

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

26 Section 103. Definitions.

27 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

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

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

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

16 * * *

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

20 (1) Has not had its permit revoked.

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

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

1 * * *

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

4 (1) Profits or losses.

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

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

9 * * *

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

12 * * *

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

17 * * *

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

19 Section 616. Limitations on permits.

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

22 * * *

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

29 * * *

30 Section 3. The act is amended by adding sections to read:

1 Section 617. Additional dispensary permits authorized.

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

5 (b) Rights and privileges.--The dispensary permits issued
6 under this section shall have all the rights and privileges <--
7 afforded to dispensaries operating as medical marijuana
8 organizations under section 601(2). CARRY THE SAME RIGHTS, <--
9 PRIVILEGES AND OBLIGATIONS AS DISPENSARY PERMITS ISSUED UNDER
10 THIS CHAPTER.

11 (C) DISPENSING AND FACILITY REQUIREMENTS.--THE DISPENSARY
12 PERMITS ISSUED UNDER THIS SECTION SHALL BE SUBJECT TO THE
13 REQUIREMENTS IN CHAPTER 8.

14 (e) (D) Suspension or revocation prohibited.--The department <--
15 may not suspend, revoke or withdraw a permit or fail to renew
16 the permit of an entity that receives a dispensary permit under
17 this section due to the entity ceasing to qualify as an
18 independent grower/processor after the holder of the dispensary
19 permit becomes operational in this Commonwealth. NOTHING IN THIS <--
20 SECTION SHALL PROHIBIT THE DEPARTMENT FROM TAKING ACTION FOR A
21 VIOLATION OF SECTION 618(A)(4).

22 Section 618. Application and issuance of additional dispensary
23 permits.

24 (a) Applications.--

25 (1) The department shall develop a standard application
26 form and make the form available to independent
27 grower/processors that apply for dispensary permits
28 authorized under section 617.

29 (2) The department shall, within 30 days of the
30 effective date of this paragraph, accept applications from

1 independent grower/processors for dispensary permits
2 authorized under section 617.

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

7 (4) THE DEPARTMENT SHALL REQUIRE AN APPLICANT FOR A <--
8 DISPENSARY PERMIT AUTHORIZED UNDER SECTION 617 TO CERTIFY TO
9 THE DEPARTMENT IN THE APPLICATION THAT THE APPLICANT WILL NOT
10 ENTER INTO A MERGER, ACQUISITION, CHANGE OF CONTROL
11 TRANSACTION OR OTHERWISE BECOME ASSOCIATED WITH OR MATERIALLY
12 THE SAME AS ANOTHER MEDICAL MARIJUANA ORGANIZATION, ENTITY OR
13 PERSON THAT HOLDS A PERMIT FROM THE DEPARTMENT FOR A DURATION
14 OF ONE YEAR FROM THE DATE ON WHICH THE INDEPENDENT
15 GROWER/PROCESSOR RECEIVES AN OPERATIONAL CERTIFICATE FROM THE
16 DEPARTMENT.

17 (b) Issuance.--

18 (1) The department shall issue dispensary permits within
19 15 days of review of applications received under this section
20 to all applicants that meet the minimum requirements for
21 permitting UNDER THIS CHAPTER. The department shall notify an <--
22 applicant for dispensary permits authorized under section 617
23 of the approval of an application by certified mail or email.

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

29 (3) If the department denies an application for
30 dispensary permits authorized under section 617, no later

1 than 15 days after completing the review under subsection (a)
2 (2), the department shall notify the applicant of the denial
3 by certified mail or email. The notice shall include each
4 deficiency in the application that does not meet the
5 requirements to be issued a permit under this act.

6 (4) If the department determines that an application is
7 complete but lacks sufficient information upon which to make
8 a determination, the department shall notify the applicant in
9 writing of the factors that require additional information
10 and documentation. The following apply:

11 (i) Except as provided under subparagraph (iv), an
12 applicant has 30 days from the mailing date of the notice
13 under this paragraph to provide the requested information
14 and documentation to the department.

15 (ii) An applicant's failure to provide the requested
16 information to the department by the deadline may be
17 grounds for denial of the issuance of the dispensary
18 permit.

19 (iii) Nothing in this paragraph requires the
20 department to request additional or supplemental
21 information from an applicant if the application is
22 deemed complete under paragraph (1).

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

26 (v) The department shall ~~issue~~ MAKE A DETERMINATION <--
27 ON THE ISSUANCE OF the dispensary permit within 15 days
28 of receipt of the requested information or documentation
29 required to make a determination.

30 (5) Upon request for inspection or reinspection for an

1 operational certificate, the department shall inspect the
2 dispensary location within 30 days of request by certified
3 mail or email.

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

7 ~~(c) Fees. An independent grower/processor applying for a~~ <--
8 ~~dispensary permit under this section shall remit at the time of~~
9 ~~application:~~

10 ~~(1) A nonrefundable application review fee in the amount~~
11 ~~of \$5,000. A subsequent application for a denied application~~
12 ~~under this section shall not incur an additional application~~
13 ~~review fee.~~

14 ~~(2) A permitting fee in the amount of \$30,000 which~~
15 ~~shall be considered earned by the department upon the~~
16 ~~issuance of a dispensary permit. The permitting fee shall be~~
17 ~~held by the department until a dispensary permit is issued by~~
18 ~~the department or the applicant notifies the department by~~
19 ~~certified mail or email that the applicant is abandoning the~~
20 ~~application and that the applicant requests the return of the~~
21 ~~\$30,000 permitting fee.~~

22 ~~(C) FEES.--~~ <--

23 (1) AN INDEPENDENT GROWER/PROCESSOR APPLYING FOR:

24 (I) AN INITIAL APPLICATION FEE IN THE AMOUNT OF
25 \$5,000. THE FEE IS NONREFUNDABLE.

26 (II) A PERMIT FEE OF \$30,000 FOR EACH LOCATION. THE
27 PERIOD OF THE PERMIT SHALL BE ONE YEAR. AN APPLICANT
28 SHALL SUBMIT THE PERMIT FEE AT THE TIME OF SUBMISSION OF
29 THE APPLICATION. THE FEE SHALL BE RETURNED IF THE
30 APPLICATION IS NOT GRANTED.

1 (III) A RENEWAL FEE FOR THE PERMIT AS A DISPENSARY
2 IN THE AMOUNT OF \$5,000. THE FEE SHALL BE RETURNED IF THE
3 RENEWAL IS NOT GRANTED AND SHALL COVER RENEWAL FOR ALL
4 LOCATIONS. AN APPLICATION TO RENEW A PERMIT MUST BE FILED
5 WITH THE DEPARTMENT NOT MORE THAN SIX MONTHS NOR LESS
6 THAN FOUR MONTHS PRIOR TO EXPIRATION.

7 (IV) A FEE OF \$250 WHEN AMENDING THE APPLICATION TO
8 INDICATE RELOCATION WITHIN THIS COMMONWEALTH OR THE
9 ADDITION OR DELETION OF APPROVED ACTIVITIES BY THE
10 MEDICAL MARIJUANA ORGANIZATION.

11 (2) ALL FEES UNDER PARAGRAPH (1) SHALL BE PAID BY
12 CERTIFIED CHECK OR MONEY ORDER.

13 (3) FEES PAYABLE UNDER PARAGRAPH (1) SHALL BE DEPOSITED
14 INTO THE FUND.

15 (d) Regions.--

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

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

22 (i) The department may limit the number of
23 dispensary permits issued under this section to one
24 dispensary permit per independent grower/processor for
25 any region established under section 603(d).

26 (ii) If a single independent grower/processor
27 applies for two dispensary permits in the same region
28 established under section 603(d) and the department
29 determines that issuing the dispensary permits to the
30 applicant would not be in the best interests of medical

1 marijuana patients, the department shall notify the
2 applicant within seven days of the department's
3 determination and allow the applicant to submit a new
4 application for a different region without remittance of
5 an additional application ~~review~~ fee under subsection ~~(e)~~ <--
6 ~~(1)~~ (C) (1) (I). <--

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

10 (E) CERTIFICATION VIOLATION.--IF AN INDEPENDENT <--
11 GROWER/PROCESSOR ENTERS INTO A MERGER, ACQUISITION OR OTHER
12 CHANGE OF CONTROL TRANSACTION WITH ANOTHER ENTITY IN VIOLATION
13 OF SUBSECTION (A) (4), THE CONTRACT OR AGREEMENT EXECUTED WITH
14 THE OTHER ENTITY FOR THE MERGER, ACQUISITION OR OTHER CHANGE OF
15 CONTROL TRANSACTION SHALL BE VOID.

16 Section 619. Limitations on other additional permits or
17 licenses.

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

24 SECTION 4. SECTION 2001 OF THE ACT IS AMENDED BY ADDING A <--
25 DEFINITION TO READ:

26 SECTION 2001. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 * * *

1 "ACCREDITED MEDICAL SCHOOL." AN INSTITUTION LOCATED WITHIN
2 THIS COMMONWEALTH THAT IS ACCREDITED BY THE LIAISON COMMITTEE OF
3 MEDICAL EDUCATION OR THE COMMISSION ON OSTEOPATHIC COLLEGE
4 ACCREDITATION OR HAS GAINED PRE-ACCREDITATION OR PROVISIONAL
5 ACCREDITATION SO THAT THE INSTITUTION IS AUTHORIZED TO ENROLL
6 STUDENTS AND IS AFFILIATED WITH AN ACCREDITED INSTITUTION OF
7 HIGHER EDUCATION LOCATED WITHIN THIS COMMONWEALTH.

8 * * *

9 Section 4 5. This act shall take effect in ~~60~~ 120 days. <--