

1 HB485
2 156965-1
3 By Representative Todd
4 RFD: Judiciary
5 First Read: 13-FEB-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the possession and use
9 of cannabis is a criminal act.

10 This bill would allow the possession, use,
11 and cultivation of limited amounts of cannabis for
12 personal use by persons 21 years of age or older.

13 This bill would authorize the Department of
14 Revenue to regulate the cultivation, processing,
15 packaging, testing, transportation, display, and
16 sale of cannabis and cannabis accessories.

17 This bill would prohibit the sale of
18 cannabis except by regulated retail cannabis
19 stores.

20 This bill would also provide for a tax on
21 the sale of cannabis.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to the possession and use of cannabis; to
2 allow the possession, use, and cultivation of limited amounts
3 of cannabis for personal use by adults; to authorize the
4 Department of Revenue to regulate the cultivation, processing,
5 packaging, testing, transportation, display, and sale of
6 cannabis and cannabis accessories; to prohibit the sale of
7 cannabis except by regulated retail cannabis stores; and to
8 provide for a tax on the sale of cannabis.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. This act shall be known and may be cited
11 as the Alabama Marijuana Freedom Act.

12 Section 2. As used in this act, the following words
13 shall have the following meanings:

14 (1) CANNABIS. All parts of the plant of the genus
15 cannabis whether growing or not, the seeds thereof, the resin
16 extracted from any part of the plant, and every compound,
17 manufacture, salt, derivative, mixture, or preparation of the
18 plant, its seeds, or its resin. Cannabis is also referred to
19 as marijuana or marihuana. Cannabis does not include
20 industrial hemp, nor does it include fiber produced from the
21 stalks, oil, or cake made from the seeds of the plant,
22 sterilized seeds of the plant, which are incapable of
23 germination, or the weight of any other ingredient combined
24 with cannabis to prepare topical or oral administrations,
25 food, drink, or other product.

26 (2) CANNABIS ACCESSORY. Any equipment, product, or
27 material of any kind which is used, intended for use, or

1 designed for use in planting, propagating, cultivating,
2 growing, harvesting, composting, manufacturing, compounding,
3 converting, producing, processing, preparing, testing,
4 analyzing, packaging, repackaging, storing, vaporizing, or
5 containing cannabis, or for ingesting, inhaling, or otherwise
6 introducing cannabis into the human body.

7 (3) CANNABIS CULTIVATION FACILITY. An entity
8 licensed to cultivate, prepare, and package cannabis and sell
9 cannabis to a retail cannabis store, to a cannabis
10 manufacturing facility, or to another cannabis cultivation
11 facility, but not to consumers.

12 (4) CANNABIS ESTABLISHMENT. A retail cannabis store,
13 cannabis cultivation facility, cannabis product manufacturing
14 facility, or a cannabis testing facility.

15 (5) CANNABIS PRODUCT MANUFACTURING FACILITY. An
16 entity licensed to purchase cannabis, manufacture, prepare,
17 and package cannabis products, and sell cannabis and cannabis
18 products to another cannabis product manufacturing facility or
19 to a retail cannabis store, but not to consumers.

20 (6) CANNABIS PRODUCTS. Concentrated cannabis
21 products and cannabis products that are comprised of cannabis
22 and other ingredients and are intended for use or consumption,
23 such as, but not limited to, edible products, ointments, and
24 tinctures.

25 (7) CANNABIS TESTING FACILITY. An entity licensed to
26 analyze and certify the safety and potency of cannabis.

1 (8) CONSUMER. A person 21 years of age or older who
2 purchases cannabis or cannabis products for personal use by
3 persons 21 years of age or older, but not for resale to
4 others.

5 (9) INDUSTRIAL HEMP. The plant of the genus cannabis
6 and any part of the plant, whether growing or not, with a
7 delta-9 tetrahydrocannabinol concentration that does not
8 exceed three-tenths percent on a dry weight basis.

9 (10) LABELING. All labels and other written,
10 printed, or graphic matter upon any cannabis intended for
11 medical use, or accompanying the cannabis.

12 Section 3. Notwithstanding Sections 13A-12-213 and
13 13A-12-214, Code of Alabama 1975, relating to the possession
14 of marijuana, and Section 13A-12-231, Code of Alabama 1975,
15 relating to the cultivation and trafficking of cannabis, the
16 following acts shall be lawful and may not be the basis for
17 seizure or forfeiture of assets for persons 21 years of age or
18 older:

19 (1) Possessing, displaying, purchasing, or
20 transporting one ounce or less of cannabis.

21 (2) Transferring one ounce or less of cannabis
22 without remuneration to a person who is 21 years of age or
23 older.

24 (3) Using or consuming cannabis, provided the use or
25 consumption is not conducted openly or publicly or in a manner
26 that endangers others.

1 (4) Manufacturing, possessing, displaying,
2 transporting, or purchasing cannabis accessories or selling
3 cannabis accessories to a person who is 21 years of age or
4 older.

5 (5) Assisting another person who is 21 years of age
6 or older in any of the acts described in this section.

7 Section 4. (a) Notwithstanding Sections 13A-12-213
8 and 13A-12-214, Code of Alabama 1975, relating to the
9 possession of marijuana, and Section 13A-12-231, Code of
10 Alabama 1975, relating to the cultivation and trafficking of
11 cannabis, a cannabis establishment described in this section,
12 and any person who is acting in his or her capacity as an
13 owner, employee, or agent of such cannabis establishment, may
14 operate and carry out the prescribed functions, provided the
15 establishment has been issued a valid license by the
16 Department of Revenue and is in compliance with the provisions
17 of this act and any rules adopted thereto.

18 (b) A retail cannabis store may possess, display,
19 sell, or transport cannabis products; purchase cannabis or
20 cannabis products from a cannabis product manufacturing
21 facility; or possess or sell cannabis to consumers.

22 (c) A cannabis cultivation facility may cultivate,
23 harvest, process, package, display, or possess cannabis;
24 transport cannabis to a cannabis testing facility; transport
25 or sell cannabis to another cannabis cultivation facility, a
26 cannabis product manufacturing facility, or a retail cannabis

1 store; or purchase cannabis from another cannabis cultivation
2 facility.

3 (d) A cannabis product manufacturing facility may
4 package, process, manufacture, display, or possess cannabis or
5 cannabis products; transport cannabis or cannabis products to
6 a cannabis testing facility; sell or transport cannabis or
7 cannabis products to a retail cannabis store or another
8 cannabis product manufacturing facility; purchase or transport
9 cannabis from a cannabis cultivation facility; or purchase or
10 transport cannabis or cannabis products from another cannabis
11 product manufacturing facility.

12 (e) A cannabis testing facility may possess,
13 cultivate, process, repackage, store, transport, or display
14 cannabis or cannabis products.

15 (f) A person, business, or other entity that
16 lawfully owns, occupies, or controls any property may lease or
17 otherwise allow the use of the property for a cannabis
18 establishment described in this section.

19 Section 5. (a) Not later than October 1, 2014, the
20 Department of Revenue shall adopt rules necessary for the
21 implementation of this act. Rules may not prohibit the
22 operation of cannabis establishments described in Section 4,
23 either expressly or through rules that make their operation
24 unreasonably impracticable. Rules shall include:

25 (1) Procedures for the issuance, renewal,
26 suspension, and revocation of a license to operate a cannabis
27 establishment.

1 (2) A schedule of application, licensing, and
2 renewal fees, provided that application fees shall not exceed
3 five thousand dollars (\$5,000), with this maximum amount
4 adjusted annually for inflation, unless the Department of
5 Revenue determines a larger fee is necessary to carry out its
6 responsibilities under this section.

7 (3) Qualifications for licensure that are directly
8 and demonstrably related to the operation of cannabis
9 establishments.

10 (4) Security requirements for cannabis
11 establishments.

12 (5) Requirements to prevent the sale or diversion of
13 cannabis and cannabis products to persons under the age of 21.

14 (6) Labelling requirements for cannabis products
15 sold or distributed by a cannabis establishment.

16 (7) Health and safety standards for the manufacture
17 of cannabis products and the cultivation of cannabis.

18 (8) Restrictions on the advertising and display of
19 cannabis and cannabis products.

20 (9) Civil penalties for the failure to comply with
21 rules adopted pursuant to this section.

22 (b) To ensure that individual privacy is protected,
23 notwithstanding subsection (a), the Department of Revenue may
24 not require a consumer to provide a retail cannabis store with
25 personal information other than government-issued
26 identification to determine the consumer's age, and a retail
27 cannabis store shall not be required to acquire and record

1 personal information about consumers other than information
2 typically acquired in a financial transaction conducted at a
3 retail store that sells alcoholic beverages.

4 (c) A license shall be valid for one year.

5 Section 6. (a) An application for a license to
6 operate a cannabis establishment shall be submitted along with
7 the application fee to the Department of Revenue. The
8 Department of Revenue, upon receipt of the application and
9 fee, shall immediately forward a copy of each application and
10 half of the license application fee to the local governing
11 body that has jurisdiction, as provided in Section 7, over the
12 location in which the applicant desires to operate the
13 cannabis establishment.

14 (b) If an applicant is seeking a license in a
15 location where a municipality or county government has enacted
16 a limit on the number of cannabis establishments, and the
17 number of applications exceeds that number, the Department of
18 Revenue shall solicit and consider input from the municipality
19 or county government as to its preference or preferences for
20 licensure.

21 (c) Not more than 90 days after receipt of a
22 completed application, the Department of Revenue, upon receipt
23 of a licensing fee, shall issue a license or, if the applicant
24 does not meet the requirements for licensure under this act or
25 the requirements for licensure by the municipality or county
26 government, shall deny the issuance of a license, setting
27 forth in writing the specific reasons for denial.

1 Section 7. (a) A municipality or county government
2 may enact ordinances or adopt rules relating to any of the
3 following:

4 (1) The time, place, manner, and number of cannabis
5 facilities.

6 (2) Procedures for the issuance, suspension, and
7 revocation of a license issued by the municipality or county
8 government as provided in this section and in accordance with
9 the Alabama Administrative Procedure Act.

10 (3) A schedule of annual operating, licensing, and
11 application fees for cannabis establishments, provided the
12 application fee shall only be due if an application is
13 submitted to a municipality or county government as provided
14 in this section and a licensing fee shall only be due if a
15 license is issued by the municipality or county government.

16 (4) Civil penalties for violation of an ordinance or
17 rule.

18 (b) A municipality or county government may prohibit
19 the operation of retail cannabis stores, cannabis cultivation
20 facilities, cannabis product manufacturing facilities, or
21 cannabis testing facilities through the enactment of an
22 ordinance or through a referenda, provided any referenda shall
23 appear on a general election ballot during an even numbered
24 year.

25 (c) If the Department of Revenue fails to issue or
26 deny a license to an applicant within 90 days of receipt of an
27 application filed in accordance with Section 6, or if the

1 Department of Revenue has adopted rules pursuant to Section 5
2 and has accepted applications but has not issued any licenses
3 by January 1, 2015, an applicant may resubmit its application
4 directly to the municipality or county government. Not more
5 than 90 days after receipt of a completed application, the
6 municipality or county government shall, upon receipt of a
7 licensing fee, issue a license or, if the applicant does not
8 meet the requirements for licensure under this act or the
9 requirements for licensure by the municipality or county
10 government, shall deny the issuance of a license, setting
11 forth in writing the specific reasons for denial. If a license
12 is issued, the municipality or county government shall notify
13 the Department of Revenue, and the Department of Revenue shall
14 forward to the municipality or county government the
15 application fee paid by the applicant.

16 (d) A license issued by a municipality or county
17 government shall have the same force and effect as a license
18 issued by the Department of Revenue and shall be valid for one
19 year.

20 (e) A municipality or county government may issue
21 subsequent licenses or renew licenses if the Department of
22 Revenue has not adopted rules under Section 5 at least 90 days
23 prior to the date upon which a new or renewed license would be
24 effective or if the Department of Revenue has adopted rules
25 but has not, at least 90 days after the adoption of rules,
26 issued licenses.

1 Section 8. (a) The Legislature shall enact a sales
2 tax to be applied to all cannabis sales authorized under
3 Sections 3 to 8, inclusive. The revenue generated by this tax
4 shall be distributed to the state's municipal police
5 departments to be used to combat the illegal trafficking and
6 production of drugs contained in Schedules I and II of the
7 Alabama Controlled Substances Act. The rate shall not exceed
8 the maximum total tax rate on the sale of alcoholic beverages,
9 as provided in Title 28, Code of Alabama, 1975.

10 (b) Not later than July 1, 2015, the Legislature
11 shall enact legislation governing the cultivation, processing,
12 and sale of industrial hemp.

13 Section 9. Nothing in Sections 3 to 8, inclusive, is
14 intended do any of the following:

15 (1) Require an employer to allow or accommodate the
16 purchase, sale, possession, use, consumption, cultivation,
17 display, transfer, distribution, or transportation of cannabis
18 in the workplace or to affect the ability of employers to have
19 workplace policies restricting or prohibiting the use of
20 cannabis by employees.

21 (2) Allow driving under the influence of cannabis or
22 to supersede laws related to driving under the influence of
23 cannabis, nor shall this act prevent the state from enacting
24 or imposing penalties for driving under the influence of
25 cannabis.

26 (3) Allow the transfer of cannabis, with or without
27 remuneration, to a person under the age of 21, or to allow a

1 person under the age of 21 to purchase, sell, possess, use,
2 consume, cultivate, display, transfer, distribute, or
3 transport cannabis.

4 (4) Affect the ability of a person, employer,
5 school, hospital, detention facility, corporation, or any
6 other entity that owns, occupies, or controls a property to
7 restrict, regulate, or prohibit the purchase, sale,
8 possession, use, consumption, cultivation, display, transfer,
9 distribution, or transportation of cannabis on or in that
10 property.

11 Section 10. The provisions of this act are
12 severable. If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 11. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.