

1 SB115  
2 172469-2  
3 By Senator Sanford  
4 RFD: Judiciary  
5 First Read: 02-FEB-16

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8 SYNOPSIS: Under existing law, it is an affirmative  
9 defense to a prosecution for the unlawful  
10 possession of marijuana if the defendant has a  
11 debilitating epileptic condition and he or she, or  
12 a parent or caretaker, used or possessed  
13 cannabidiol (CBD) pursuant to a prescription by a  
14 health care practitioner employed by the Department  
15 of Neurology at the University of Alabama at  
16 Birmingham (UAB). The availability of the  
17 affirmative defense is repealed on July 1, 2019.

18 This bill would revise the affirmative  
19 defense to include a defendant who is prosecuted  
20 for unlawful possession of marijuana in the second  
21 degree if the defendant used the cannabidiol (CBD)  
22 because he or she was diagnosed with a debilitating  
23 medical condition, as defined in the bill, by a  
24 physician with whom he or she had a bona fide  
25 physician-patient relationship and the CBD provides  
26 the defendant with therapeutic or palliative relief.

1                   This bill would provide that the affirmative  
2 defense is also available to parents or legal  
3 guardians possessing CBD for a minor who was  
4 prescribed CBD to treat a debilitating medical  
5 condition and would eliminate the requirement that  
6 CBD be prescribed by health care practitioners  
7 employed by UAB.

8                   This bill would also remove the repeal of  
9 the affirmative defense on July 1, 2019.

10                   Amendment 621 of the Constitution of Alabama  
11 of 1901, now appearing as Section 111.05 of the  
12 Official Recompilation of the Constitution of  
13 Alabama of 1901, as amended, prohibits a general  
14 law whose purpose or effect would be to require a  
15 new or increased expenditure of local funds from  
16 becoming effective with regard to a local  
17 governmental entity without enactment by a 2/3 vote  
18 unless: it comes within one of a number of  
19 specified exceptions; it is approved by the  
20 affected entity; or the Legislature appropriates  
21 funds, or provides a local source of revenue, to  
22 the entity for the purpose.

23                   The purpose or effect of this bill would be  
24 to require a new or increased expenditure of local  
25 funds within the meaning of the amendment. However,  
26 the bill does not require approval of a local  
27 governmental entity or enactment by a 2/3 vote to

1           become effective because it comes within one of the  
2           specified exceptions contained in the amendment.

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4                           A BILL  
5                           TO BE ENTITLED  
6                           AN ACT

7  
8           To amend Section 13A-12-214.2, Code of Alabama 1975,  
9 relating to the possession and use of cannabidiol; to further  
10 provide for an affirmative defense for the use or possession  
11 of cannabidiol for certain debilitating conditions; to  
12 eliminate the requirement that cannabidiol be prescribed by a  
13 health care practitioner employed by UAB; and in connection  
14 therewith would have as its purpose or effect the requirement  
15 of a new or increased expenditure of local funds within the  
16 meaning of Amendment 621 of the Constitution of Alabama of  
17 1901, now appearing as Section 111.05 of the Official  
18 Recompilation of the Constitution of Alabama of 1901, as  
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21           Section 1. This act may be cited and shall be known  
22 as Leni's Law.

23           Section 2. Section 13A-12-214.2, Code of Alabama  
24 1975, is amended to read as follows:

25           "§13A-12-214.2.

26           "(a) This section shall be known and may be cited as  
27 "Carly's Law."

1           "(b) As used in this section, the following words  
2 shall have the following meanings:

3           "~~(1) AUTHORIZED BY THE UAB DEPARTMENT. Authorized by~~  
4 ~~the UAB Department means that Cannabidiol (CBD) has been~~  
5 ~~prescribed by a health care practitioner employed by or on~~  
6 ~~behalf of the UAB Department~~ BONA FIDE PHYSICIAN-PATIENT  
7 RELATIONSHIP. A relationship in which a physician has ongoing  
8 responsibility for the assessment, care, and treatment of a  
9 patient's medical condition.

10           "(2) DEBILITATING MEDICAL CONDITION. A chronic or  
11 debilitating disease or medical condition or the treatment of  
12 a chronic or debilitating disease or medical condition that  
13 produces one or more of the following, as documented by a  
14 physician with whom the patient has a bona fide  
15 physician-patient relationship:

16           "a. Cachexia or wasting syndrome.

17           "b. Severe or chronic pain.

18           "c. Severe nausea.

19           "d. Seizures.

20           "e. Severe and persistent muscle spasms.

21           "f. Any other condition that is severe and resistant  
22 to conventional medicine.

23           "~~(2)~~ (3) CANNABIDIOL (CBD). [13956-29-1]. A  
24 (nonpsychoactive) cannabinoid found in the plant Cannabis  
25 sativa L. or any other preparation thereof that is essentially  
26 free from plant material, and has a THC level of no more than  
27 3 percent. Also known as (synonyms):

1 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p  
2 entyl-1,3-benzenediol;  
3 trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;  
4 (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);  
5 D1(2)-trans-Cannabidiol.

6 ~~"(3) DEBILITATING EPILEPTIC CONDITION. Epilepsy or~~  
7 ~~other neurological disorder, or the treatment of epilepsy or~~  
8 ~~other neurological disorder that, as diagnosed by a~~  
9 ~~board-certified neurologist under the employment or authority~~  
10 ~~of the UAB Department, produces serious, debilitating, or~~  
11 ~~life-threatening seizures.~~

12 ~~"(4) UAB DEPARTMENT. The Department of Neurology at~~  
13 ~~the University of Alabama at Birmingham, its successors, or~~  
14 ~~any subdivisions.~~

15 "(c) In a prosecution for the unlawful possession of  
16 marijuana under the laws of this state in the second degree  
17 under Section 13A-12-214, it is an affirmative and complete  
18 defense ~~to the prosecution~~ that the defendant ~~has a~~  
19 ~~debilitating epileptic condition~~ and used or possessed  
20 cannabidiol (CBD) ~~pursuant to a prescription authorized by the~~  
21 ~~UAB Department~~ because the defendant has a debilitating  
22 medical condition that has been diagnosed by a physician with  
23 whom the defendant has a bona fide physician-patient  
24 relationship and the cannabidiol is likely to provide the  
25 defendant with therapeutic or palliative relief from the  
26 debilitating medical condition.

1           "(d) In a prosecution for the unlawful possession of  
2 marijuana ~~under the laws of this state~~ in the second degree  
3 under Section 13A-12-214, it is an affirmative and complete  
4 defense ~~to the prosecution~~ that the defendant possessed  
5 cannabidiol (CBD) because he or she is the parent or ~~caretaker~~  
6 ~~of an individual who has a debilitating epileptic condition~~  
7 ~~and who has a prescription for the possession and use of~~  
8 ~~cannabidiol (CBD) as authorized by the UAB Department, and~~  
9 ~~where the parent or caretaker's possession of the CBD is on~~  
10 ~~behalf of and otherwise for the prescribed person's use only~~  
11 legal guardian of a minor who was prescribed cannabidiol for  
12 therapeutic or palliative relief from a debilitating medical  
13 condition by a physician with whom the minor has a bona fide  
14 physician-patient relationship.

15           "(e) An agency of this state or a political  
16 subdivision thereof, including any law enforcement agency, may  
17 not initiate proceedings to remove a child from the home of a  
18 parent based solely upon the parent's or child's possession or  
19 use of cannabidiol (CBD) as authorized by this section.

20           "~~(f) A prescription for the possession or use of~~  
21 ~~cannabidiol (CBD) as authorized by this section shall be~~  
22 ~~provided exclusively by the UAB Department for a debilitating~~  
23 ~~epileptic condition. Health care practitioners of the UAB~~  
24 ~~Department shall be the sole authorized source of any~~  
25 ~~prescription for the use of cannabidiol (CBD), and shall be~~  
26 ~~the sole authorized source to use cannabidiol (CBD) in or as a~~  
27 ~~part of the treatment of a person diagnosed with a~~

1 ~~debilitating epileptic condition. A health care practitioner~~  
2 ~~of the UAB Department shall have the sole authority to~~  
3 ~~determine the use or amount of cannabidiol (CBD), if any, in~~  
4 ~~the treatment of an individual diagnosed with a debilitating~~  
5 ~~epileptic condition.~~

6 ~~"(g) The UAB Department and any UAB School of~~  
7 ~~Medicine affiliated pediatric training entity, including any~~  
8 ~~authorized physician, nurse, attendant, or agent thereof,~~  
9 ~~shall not be subject to prosecution for the unlawful~~  
10 ~~possession, use, distribution, or prescription of marijuana~~  
11 ~~under the laws of this state for its activities arising~~  
12 ~~directly out of or directly related to the prescription or use~~  
13 ~~of cannabidiol (CBD) in the treatment of individuals diagnosed~~  
14 ~~with a debilitating epileptic condition.~~

15 ~~"(h) The UAB Department will establish a research~~  
16 ~~and development study purposed to determine medical uses and~~  
17 ~~benefits of cannabidiol (CBD) for individuals with~~  
18 ~~debilitating epileptic conditions.~~

19 ~~"(i) The UAB Department and any UAB School of~~  
20 ~~Medicine affiliated pediatric training entity, including any~~  
21 ~~authorized physician, nurse, attendant or agent thereof, shall~~  
22 ~~not be subject to prosecution for the unlawful possession,~~  
23 ~~use, or distribution of marijuana under the laws of this state~~  
24 ~~for its activities arising directly out of or directly related~~  
25 ~~to the department's research and development activities in~~  
26 ~~pursuit of medical benefits and uses of cannabidiol (CBD), as~~  
27 ~~long as the prescription, treatment or use of cannabidiol~~



1 ~~(CBD) is provided only to individuals diagnosed with a~~  
2 ~~debilitating epileptic condition.~~

3 ~~"(j) Pursuant to the filing requirements of Rule~~  
4 ~~15.3 of the Alabama Rules of Criminal Procedure, the defendant~~  
5 ~~shall produce a valid prescription, certification of a~~  
6 ~~debilitating epileptic condition, and the name of the~~  
7 ~~prescribing health care professional authorized by the UAB~~  
8 ~~Department.~~

9 ~~"(k) This section is repealed July 1, 2019.~~

10 ~~"(l) (e) Nothing in this section shall be construed~~  
11 ~~to allow or accommodate the prescription, testing, medical~~  
12 ~~use, or possession of any other form of Cannabis other than~~  
13 ~~that defined by this section."~~

14 Section 3. Although this bill would have as its  
15 purpose or effect the requirement of a new or increased  
16 expenditure of local funds, the bill is excluded from further  
17 requirements and application under Amendment 621, now  
18 appearing as Section 111.05 of the Official Recompilation of  
19 the Constitution of Alabama of 1901, as amended, because the  
20 bill defines a new crime or amends the definition of an  
21 existing crime.

22 Section 4. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.