

SB276 INTRODUCED



1 SB276
2 CN8DWQW-1
3 By Senators Sessions, Melson
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 02-Apr-24



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SYNOPSIS:

The Alabama Medical Cannabis Commission is responsible for issuing licenses for the processing and dispensing of medical cannabis products.

Under existing law, the Alabama Medical Cannabis Commission may issue no more than four processor licenses and dispensary licenses and no more than five integrated facility licenses to eligible applicants.

This bill would increase the number of licenses the Alabama Medical Cannabis Commission issues to six processor licenses, seven dispensary licenses, and 15 integrated facility licenses to eligible applicants.

This bill would also make the issuance of the specified number of licenses mandatory rather than discretionary.

This bill would void the rescission of licenses and the denial of license applications for certain applicants that were previously acted on by the commission.

This bill would require the Alabama Medical Cannabis Commission to reissue licenses to certain applicants.

This bill would also provide for certain requirements and guidelines pertaining to the awarding of any additionally available licenses to certain



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29 applicants.

30 This bill would provide for an administrative
31 adjudicatory process that provides the commission with
32 a recommended order pertaining to the awarding of any
33 additionally available licenses to certain applicants.

34 This bill would further provide for an appeals
35 process allowing aggrieved applicants to challenge the
36 final orders of the commission pertaining to the
37 awarding of any additionally available licenses to
38 certain applicants.

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to medical cannabis; to amend Sections
46 20-2A-63, 20-2A-64, and 20-2A-67, Code of Alabama 1975, to
47 require the Alabama Medical Cannabis Commission to issue an
48 increased number of licenses to eligible applicants; and to
49 provide certain requirements and guidelines related to the
50 licensure of certain applicants; to add Sections 20-2A-67.1
51 and 20-2A-67.2 to the Code of Alabama 1975, to provide for an
52 administrative adjudicatory process for recommendation of the
53 awarding of available licenses to certain applicants; and to
54 provide for an appeals process to challenge the final orders
55 of the commission regarding the licensure of certain
56 applicants.



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57 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

58 Section 1. Sections 20-2A-63, 20-2A-64, and 20-2A-67,
59 Code of Alabama 1975, are amended to read as follows:

60 "§20-2A-63

61 (a) (1) A processor license authorizes all of the
62 following:

63 a. The purchase or transfer of cannabis from a
64 cultivator.

65 b. The processing of cannabis into medical cannabis
66 which shall include properly packaging and labeling medical
67 cannabis products, in accordance with this section.

68 c. The sale or transfer of medical cannabis to a
69 dispensary.

70 (2) A processor license authorizes the processor to
71 transfer medical cannabis only by means of a secure
72 transporter.

73 (b) The commission shall issue ~~no more than four~~ six
74 processor licenses to eligible applicants.

75 (c) (1) All medical cannabis products must be medical
76 grade product, manufactured using documented good quality
77 practices, and meet Good Manufacturing Practices, such that
78 the product is shown to meet intended levels of purity and be
79 reliably free of toxins and contaminants. Medical cannabis
80 products may not contain any additives other than
81 pharmaceutical grade excipients.

82 (2) The department shall be responsible for enforcing
83 Good Manufacturing Practices.

84 (d) Medical cannabis products may not be processed into



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85 a form that is attractive to or targets children, including
86 all of the following which are prohibited:

87 (1) Any product bearing any resemblance to a cartoon
88 character, fictional character whose target audience is
89 children or youth, or pop culture figure.

90 (2) Any product bearing a reasonable resemblance to a
91 product available for consumption as a commercially available
92 candy.

93 (3) Any product whose design resembles, by any means,
94 another object commonly recognized as appealing to, or
95 intended for use by, children.

96 (4) Any product whose shape bears the likeness or
97 contains characteristics of a realistic or fictional human,
98 animal, or fruit, including artistic, caricature, or cartoon
99 rendering.

100 (e) All of the following shall apply to all packages
101 and labels of medical cannabis products:

102 (1) Labels, packages, and containers shall not be
103 attractive to minors and may not contain any content that
104 reasonably appears to target children, including toys, cartoon
105 characters, and similar images. Packages shall be designed to
106 minimize appeal to children and must contain a label that
107 reads: "Keep out of reach of children."

108 (2) All medical cannabis products must be packaged in
109 child-resistant, tamper-evident containers.

110 (3) All medical cannabis product labels shall contain,
111 at a minimum, the following information:

112 a. Lot and batch numbers.



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113 b. A license identification number for the cultivator
114 and a license identification number for the processor.

115 c. Cannabinoids content and potency.

116 d. The universal state symbol printed in color at least
117 one-half inch by one-half inch in size.

118 (f) The commission shall establish one universal flavor
119 for all gelatinous cube, cuboid, and lozenge medical cannabis
120 products.

121 (g) The following statement shall be included on each
122 label, if space permits, or as an insert within the package:
123 "WARNING: This product may make you drowsy or dizzy. Do not
124 drink alcohol with this product. Use care when operating a
125 vehicle or other machinery. Taking this product with
126 medication may lead to harmful side effects or complications.
127 Consult your physician before taking this product with any
128 medication. Women who are breastfeeding, pregnant, or plan to
129 become pregnant should discuss medical cannabis use with their
130 physicians."

131 (h) Any advertisement and any package or label may not
132 contain any false statement or statement that advertises
133 health benefits or therapeutic benefits of medical cannabis.

134 (i) The commission may require the implementation of a
135 digital image such as a QR Code for purposes of tracking
136 medical cannabis products. The digital image must interface
137 with the statewide seed-to-sale tracking system.

138 (j) The commission shall determine what information
139 from the label shall be entered into the statewide
140 seed-to-sale tracking system."



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141 "§20-2A-64

142 (a) (1) A dispensary license authorizes all of the
143 following:

144 a. The purchase or transfer of medical cannabis from a
145 processor.

146 b. If a cultivator contracted with a processor to
147 process its cannabis into medical cannabis on the cultivator's
148 behalf, the purchase or transfer of medical cannabis from the
149 cultivator.

150 c. The purchase or transfer of medical cannabis from an
151 integrated facility.

152 d. The dispensing and sale of medical cannabis only to
153 a registered qualified patient or registered caregiver.

154 (2) A dispensary license authorizes the dispensary to
155 transfer medical cannabis only by means of a secure
156 transporter, including transport between its dispensing sites.

157 (b) The commission shall issue ~~no more than four~~ seven
158 dispensary licenses to eligible applicants.

159 (c) A dispensary license authorizes the dispensary to
160 transfer medical cannabis to or from a state testing
161 laboratory for testing by means of a secure transporter.

162 (d) A licensed dispensary shall comply with all of the
163 following:

164 (1) Each dispensing site must be located at least ~~one~~
165 ~~thousand~~ 1,000 feet from any school, day care, or child care
166 facility.

167 (2) Each dispensing site must be equipped with
168 surveillance cameras that are focused on each point of entry



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169 and that operate on a continuous basis. The dispensary must
170 maintain surveillance records for a minimum of 60 days
171 following the date of recording.

172 (3) Sell and dispense medical cannabis at a dispensing
173 site to a registered qualified patient or registered caregiver
174 only after it has been tested and bears the label required for
175 retail sale.

176 (4) Enter all transactions, current inventory, and
177 other information into the statewide seed-to-sale tracking
178 system as required in Section 20-2A-54.

179 (5) Only allow dispensing of medical cannabis by
180 certified dispensers, as provided in subsection (e).

181 (6) Not allow the use of medical cannabis products on
182 the premises.

183 (7) Only allow registered qualified patients and
184 registered caregivers on the premises.

185 (e) (1) As used in this subsection, "certified
186 dispenser" means an employee of a dispensary who dispenses
187 medical cannabis to a registered qualified patient or
188 registered caregiver and who has been trained and certified by
189 the commission.

190 (2) The commission shall establish and administer a
191 training program for dispensers that addresses proper
192 dispensing procedures, including the requirements of this
193 subsection, and other topics relating to public health and
194 safety and preventing abuse and diversion of medical cannabis.
195 The commission shall certify trained dispensers and may
196 require, as a qualification to remain certified, periodic



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197 training.

198 (3) A certified dispensary shall comply with all of the
199 following:

200 a. Before dispensing medical cannabis, inquire of the
201 patient registry to confirm that the patient or caregiver
202 holds a valid, current, unexpired, and unrevoked medical
203 cannabis card and that the dispensing of medical cannabis
204 conforms to the type and amount recommended in the physician
205 certification and will not exceed the 60-day daily dosage
206 purchasing limit.

207 b. Enter into the patient registry the date, time,
208 amount, and type of medical cannabis dispensed.

209 c. Comply with any additional requirements established
210 by the commission by rule.

211 (4) The commission shall adopt rules to implement this
212 subsection.

213 (f) A licensee may operate up to three dispensing
214 sites, each of which must be located in a different county
215 from any other dispensing site; provided, however, the
216 commission may authorize a licensee to operate a greater
217 number of dispensing sites if, at least one year after the
218 date when the maximum number of total dispensing sites
219 authorized under this section and Section 20-2A-67 are
220 operating, the commission determines that the patient pool has
221 reached a sufficient level to justify an additional dispensing
222 site in an underserved or unserved area of the state.

223 Notwithstanding the foregoing, a licensee may not operate any
224 dispensing site in the unincorporated area of a county or in a



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225 municipality that has not adopted a resolution or ordinance
226 authorizing the operation of dispensing sites under subsection
227 (c) of Section 20-2A-51."

228 "§20-2A-67

229 (a) An integrated facility license authorizes all of
230 the following:

231 (1) The cultivation of cannabis.

232 (2) The processing of cannabis into medical cannabis,
233 including proper packaging and labeling of medical cannabis
234 products.

235 (3) The dispensing and sale of medical cannabis only to
236 a registered qualified patient or registered caregiver.

237 (4) The transport of cannabis or medical cannabis
238 between its facilities.

239 (5) The sale or transfer of medical cannabis to a
240 dispensary.

241 (b) The commission ~~may~~ shall issue ~~no more than five~~ 15
242 integrated facility licenses to eligible applicants.

243 (c) An integrated facility licensee shall have the same
244 authorizations granted to, and shall comply with all
245 requirements for, cultivators, processors, secure
246 transporters, and dispensaries, in addition to any other
247 authorizations or requirements under this section or as
248 established by rule by the commission.

249 (d) An applicant for an integrated facility license
250 shall provide all of the following:

251 (1) A letter of commitment or other ~~acknowledgement~~
252 acknowledgment, as determined by commission rule, of the



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253 applicant's ability to secure a performance bond issued by a
254 surety insurance company approved by the commission in the
255 amount of two million dollars (\$2,000,000).

256 (2) Proof of at least two hundred fifty thousand
257 dollars (\$250,000) in liquid assets.

258 (3) Proof that the applicant has the financial ability
259 to maintain operations for not less than two years following
260 the date of application.

261 (e) At the time a license is issued under this section,
262 the commission shall ensure that the licensee has secured a
263 performance bond as provided in subdivision (1) of subsection
264 (d).

265 (f) A licensee may operate up to five dispensing sites,
266 each of which must be located in a different county from any
267 other dispensing site that the licensee operates; provided,
268 however, the commission may authorize a licensee to operate a
269 greater number of dispensing sites if, at least one year after
270 the date when the maximum number of total dispensing sites
271 authorized under this section and Section 20-2A-64 are
272 operating, the commission determines that the patient pool has
273 reached a sufficient level to justify an additional dispensing
274 site in an underserved or unserved area of the state.

275 Notwithstanding the foregoing, a licensee may not operate any
276 dispensing site in the unincorporated area of a county or in a
277 municipality that has not adopted a resolution or ordinance
278 authorizing the operation of dispensing sites under subsection
279 (c) of Section 20-2A-51. This subsection shall not be
280 construed to limit wholesale distribution from integrated



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281 facility licensees to dispensary licensees."

282 Section 2. Sections 20-2A-67.1 and 20-2A-67.2 are added
283 to the Code of Alabama 1975, to read as follows:

284 §20-2A-67.1

285 (a) Notwithstanding any provision of this chapter or
286 the Alabama Administrative Procedure Act, the awarding of
287 licenses by the commission on June 12, 2023, August 10, 2023,
288 December 1, 2023, and December 12, 2023, is hereby ratified,
289 approved, and confirmed. To the extent that an applicant was
290 awarded a license on June 12, 2023, August 10, 2023, December
291 1, 2023, or December 12, 2023, and the award was purported to
292 have been subsequently rescinded, or the applicant was
293 subsequently denied a license, that purported rescission or
294 denial is hereby deemed void and without force or effect.

295 (b) No later than June 15, 2024, the commission shall
296 issue licenses to those applicants that were awarded a license
297 described in subsection (a).

298 (c) Any additional licenses available under this
299 article, which are not issued pursuant to subsections (a) and
300 (b), shall be awarded only to applicants whose applications
301 were deemed submitted by the commission on April 13, 2023,
302 pursuant to the procedures in Section 20-2A-67.2.

303 (d) Nothing in this section shall prohibit the
304 commission from suspending, revoking, or restricting any
305 license pursuant to Section 20-2A-57 or relieve any applicant
306 or licensee from any fee payment obligation.

307 §20-2A-67.2

308 (a) Any additional licenses available pursuant to



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309 Section 20-2A-67.1(c) shall be awarded following an
310 investigative hearing before an administrative law judge
311 designated by the director, which, except as provided in this
312 section, shall be heard as a contested case subject to
313 Sections 41-22-12 and 41-22-13. Eligible applicants may elect
314 to participate in the award process under this section by
315 filing notice no later than June 15, 2024. Applicants that
316 have duly filed a request for an investigative hearing prior
317 to June 15, 2024, shall be deemed to have met this filing
318 requirement. Applicants receiving a license pursuant to
319 Section 20-2A-67.1(a) and (b) shall be ineligible to apply for
320 additional licenses under this section.

321 (b) (1) All applications in a license category shall be
322 consolidated for hearing purposes under this section. No later
323 than 10 calendar days prior to the hearing, the administrative
324 law judge shall issue a notice including a statement of the
325 time, place, and nature of the hearing; a statement of the
326 legal authority and jurisdiction under which the hearing is to
327 be held; a reference to the sections of the law and rules
328 involved; and a statement identifying the action that is the
329 subject of the appeal, which shall be deemed to satisfy the
330 notice requirements of Section 41-22-12.

331 (2) On motion of a party, the administrative law judge,
332 in his or her sole discretion, may issue subpoenas, discovery
333 orders related to relevant matters, and protective orders in
334 accordance with the Alabama Rules of Civil Procedure and the
335 provisions of this chapter. The commission may set a
336 reasonable fee by rule for the issuance of a subpoena to be



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337 paid by the moving party and in the absence of such rule shall
338 charge a fee of fifty dollars (\$50). Process issued pursuant
339 to this subsection shall be enforced by a court in the same
340 manner as process that is issued by the court.

341 (3) The administrative law judge may implement measures
342 to streamline the hearing process, including, but not limited
343 to, reasonable limitations on the number of witnesses, time of
344 presentation, and restrictions on the presentation of
345 testimony that is purely cumulative in nature.

346 (c) The commission shall secure a licensed court
347 reporter who shall maintain an index of all exhibits
348 identified or offered at the time hearing. All parties to the
349 appeal shall be responsible for the cost of any transcripts
350 produced by the court reporter for such party. The
351 administrative law judge shall coordinate with the court
352 reporter and the secretary of the commission to maintain for
353 the commission an indexed copy of all other filings of record,
354 rulings, and orders from the date of assignment of the case to
355 the administrative law judge through the issuance of a final
356 order.

357 (d) In addition to the requirements of Section
358 41-22-12(g), the record in the investigative hearing shall
359 include the applications, prior to filings made by the
360 applicants, the record of prior proceedings before the
361 commission relating to such application, and additional
362 testimony and evidence relating to the applications that are
363 submitted on behalf of the parties and admitted into evidence;
364 provided, however, that evaluation or scoring of the



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365 applications by third parties engaged by the commission shall
366 not be considered or required.

367 (e) The commission shall not be an advocate or party in
368 the investigative hearing, and no commission member, agency
369 staff, or representative shall be called as a witness in such
370 hearing or be subject to discovery.

371 (f) The fee for the administrative law judge shall be
372 based on the hourly rate or other fee basis approved by the
373 executive director of the commission and shall be apportioned,
374 on a pro rata basis, between all parties to the hearing, with
375 each party paying its pro rata amount within 30 days of
376 receipt of an itemized invoice from the administrative law
377 judge. If a state employee who is employed outside of the
378 commission is utilized as an administrative law judge, the
379 parties shall pay an amount equal to the reimbursement
380 required under any interagency agreement through which such
381 services are provided. The director may waive all or a portion
382 of this apportionment and payment required for the
383 investigative hearings conducted under this section.

384 (g) Unless extended by the administrative law judge
385 upon agreement of all parties:

386 (1) Any hearing before an administrative law judge
387 pursuant to this article shall begin within 45 days of
388 assignment to the administrative law judge and completed
389 within 90 days of the assignment; and

390 (2) The administrative law judge shall render a
391 recommended order containing findings of fact and conclusions
392 of law in accordance with the Alabama Administrative Procedure



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393 Act within 30 days of completion of the transcript.

394 (h) (1) In license categories where the number of
395 eligible applicants participating in the hearing exceeds the
396 number of licenses that may be issued under this chapter, the
397 recommended order shall include findings regarding the
398 applications of each applicant and a recommendation as to the
399 most suitable applicant among the applicants to be awarded
400 available licenses, applying applicable legal standards to the
401 evidence of the record. The recommended order shall be
402 distributed to all parties, and all parties shall have 15 days
403 to file exceptions or briefs relating to the recommended
404 order. The commission shall thereafter schedule the matter for
405 deliberation and vote.

406 (2) The commission may approve or reject the
407 administrative law judge's proposed findings of fact and
408 conclusions of law, in whole or in part, and may adopt, in
409 whole or in part, exceptions filed by the parties. In its
410 deliberations and vote, the commission shall follow the latest
411 edition of Robert's Rules of Order, except as provided in this
412 chapter or commission rules. As provided in Section 36-25A-7,
413 the commission may meet in executive session following the
414 issuance of the recommended order to deliberate and discuss
415 the evidence and testimony of record; provided, however, any
416 motion or vote shall be made in an open meeting.

417 (3) Upon the award of all available licenses in a
418 category, the remaining applications in that category shall be
419 deemed denied.

420 (i) Within 15 days following a commission vote on a



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421 proposed order issued by an administrative law judge and any
422 exceptions filed thereto, the chair shall issue a written
423 order reflecting the decisions of the commission, which shall
424 become the final order of the commission. Notice of the final
425 order must be served either by personal delivery or by
426 certified mail, postage prepaid, to all parties to the
427 investigative hearing. The final order may incorporate by
428 reference all or portions of the recommended order or
429 exceptions. The final order shall not be subject to
430 reconsideration or rehearing. The final order of the
431 commission on appeal shall automatically supersede any prior
432 action taken by the commission regarding the applications
433 filed by the parties to the investigative hearing.

434 (j)(1) An aggrieved party who has exhausted its
435 administrative remedies under this chapter may appeal the
436 final written order of the commission directly to the Alabama
437 Court of Civil Appeals, which shall be the exclusive appellate
438 remedy for the grant or denial of a license application,
439 subject to certiorari review by the Alabama Supreme Court. An
440 appeal shall be perfected by filing a written notice of appeal
441 with the commission and the clerk of the Alabama Court of
442 Civil Appeals within 21 days after the issuance of the written
443 final order of the commission. The notice of appeal shall be
444 on a form prescribed by the Alabama Rules of Appellate
445 Procedure. The Court of Civil Appeals shall have no discretion
446 to refuse to hear appeals of the final orders of the
447 commission timely filed under this section.

448 (2) Within 30 days after a notice of appeal is filed,



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449 the commission shall transmit the administrative record to the
450 clerk of the Alabama Court of Civil Appeals, with the
451 appealing parties bearing the costs associated with the
452 preparation and transmission of the record and transcript of
453 the hearing and of giving notice to the parties of the
454 transmittal. Upon the transmittal of the administrative record
455 to the Alabama Court of Civil Appeals, the appeal shall
456 proceed in accordance with the Alabama Rules of Appellate
457 Procedure.

458 (3) The final order of the commission shall be taken as
459 prima facie evidence as being just and reasonable, and the
460 court shall not substitute its judgment for that of the agency
461 as to the weight of the evidence on questions of fact.

462 (k) The investigative hearing process provided for in
463 this section shall be the sole administrative process for the
464 consideration of applications for licenses available pursuant
465 to Section 20-2A-67.1(c) and shall apply to any licenses
466 awarded after June 1, 2024. The commission may adopt rules
467 consistent with this section.

468 (1) Nothing in this section shall prohibit the
469 commission from suspending, revoking, or restricting any
470 license under Section 20-2A-57 or relieve any applicant or
471 licensee from any fee payment obligation.

472 Section 3. If any provision of this act is held invalid
473 by a court of competent jurisdiction, the invalidity shall not
474 affect the other provisions or application of this act or any
475 amendment or statute that can be given effect without the
476 invalid provisions or application, and to this end, the



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477 provisions of this act and any amendments and statutes are
478 declared to be severable.

479 Section 4. This act shall become effective on June 1,
480 2024.