

The House Committee on Judiciary offers the following substitute to HB 1425:

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to access to medical cannabis, so as to provide that certain contracts are subject to
3 state procurement laws; to revise provisions relating to dispensing licenses; to provide for
4 information and status reports to be provided to the Medical Cannabis Commission Oversight
5 Committee; to revise provisions relating to Class 1 and Class 2 production licenses; to revise
6 dates for the retrospective study of minority and women participation; to revise the distance
7 from a covered entity; to provide that the Georgia Access to Medical Cannabis Commission
8 is subject to open records laws; to provide that all initial and replacement Class 1 and Class
9 2 production licenses are awarded through a competitive process conducted by the
10 Department of Administrative Services; to provide for a qualified independent third party to
11 assist in the process and make recommendations to the commission; to provide for additional
12 licenses based on increases in the number of registered patients in the Low THC Oil Patient
13 Registry; to direct the commission to immediately cancel a request for proposals; to direct
14 the commission to immediately take all necessary steps to purchase or obtain low THC oil
15 from any available legal source; to direct the commission to immediately take all necessary
16 steps to begin dispensing low THC oil to registered patients by a date certain; to provide for
17 a new competitive application request for proposals by a date certain; to provide for
18 immunity; to amend Code Section 31-2A-18 of the Official Code of Georgia Annotated,

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19 relating to the Low THC Oil Patient Registry, so as to add ulcerative colitis as a condition
20 for which low THC oil may be used; to provide for related matters; to provide for legislative
21 findings; to provide for an effective date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 The General Assembly finds that it is in the best interest of patients in this state to
25 immediately cancel the competitive application request for proposals for Class 1 and Class 2
26 production licenses released on November 23, 2020, as provided for in such request for
27 proposals, and immediately purchase or obtain low THC oil from other sources for
28 dispensing to registered patients until a new request for proposals can be issued with
29 appropriate oversight, evaluation, and transparency.

30 **SECTION 2.**

31 Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
32 access to medical cannabis, is amended by revising paragraph (2) of Code
33 Section 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to
34 Medical Cannabis Commission, as follows:

35 "(2) To execute a contract or contracts to purchase or obtain low THC oil, cannabis,
36 cannabinoids, or any other derivative, compound, or substantially similar products from
37 any available legal source and to provide logistics related thereto in accordance with this
38 article. Such contract or contracts may be executed with one or more qualified
39 corporations or with one or more governmental entities. Purchases made and contracts
40 entered into pursuant to this paragraph shall ~~not~~ be subject to the state purchasing laws
41 contained in Article 3 of Chapter 5 of Title 50; provided, however, that purchases made
42 and contracts entered into pursuant to the requirements of Code Section 16-12-221.1 shall

43 ~~not be subject to such state purchasing laws or in other provisions of the Official Code~~
44 ~~of Georgia Annotated;~~"

45 **SECTION 3.**

46 Said article is further amended by revising subsection (a) of Code Section 16-12-206, relating
47 to annual, nontransferable dispensing license, adoption of rules, and fees, as follows:

48 "(a)(1) Upon request by a licensed pharmacy in this state, the State Board of Pharmacy
49 shall be authorized to develop an annual, nontransferable specialty dispensing license for
50 an independent pharmacy with a registered office located within this state to dispense low
51 THC oil and products to registered patients. The State Board of Pharmacy shall develop
52 rules and regulations regarding dispensing pharmacies in this state in accordance with the
53 requirements contained in subsection (b) of this Code section.

54 (2) The commission shall be authorized to issue five dispensing licenses to each Class 1
55 production licensee, ~~and each Class 2 production licensee, and each designated university~~
56 ~~licensee~~ for retail outlets to dispense low THC oil and products to registered patients.
57 The commission shall ensure that dispensing licenses shall be issued so that retail outlets
58 are dispersed throughout the state. The commission shall develop rules and regulations
59 regarding retail dispensing licensees in this state in accordance with the requirements
60 contained in subsection (b) of this Code section. The commission shall be authorized to
61 issue one additional dispensing license to each Class 1 production licensee, each and
62 Class 2 production licensee, and each designated university licensee when the Low THC
63 Oil Patient Registry established and maintained pursuant to Code Section 31-2A-18
64 reaches 25,000 patients and for every increase of 10,000 patients thereafter."

65

SECTION 4.

66 Said article is further amended by revising Code Section 16-12-207, relating to establishment
67 of Medical Cannabis Commission Oversight Committee, membership, inspections, provision
68 of information, plan for accredited lab testing, and patient and physician input, as follows:

69 "16-12-207.

70 (a) The General Assembly shall establish a Medical Cannabis Commission Oversight
71 Committee with two members appointed by the Lieutenant Governor and two members
72 appointed by the Speaker of the House of Representatives. Any member of the Medical
73 Cannabis Commission Oversight Committee shall be permitted to inspect any production
74 facility upon request and after reasonable notice is provided to the production facility.

75 (b) The commission shall promptly provide any document or information requested by the
76 oversight committee that is in its possession, provided that the commission shall not share
77 ~~documents containing data identifying individual patients or physicians, information~~
78 ~~marked as trade secrets by applicants or licensees, information that in the view of the~~
79 ~~commission would interfere with an ongoing licensing applicant selection process, or~~
80 ~~information that in the judgment of the commission would create law enforcement or~~
81 ~~security risks to the citizens of Georgia~~ any information that would be exempt from public
82 disclosure pursuant to Code Section 50-18-72 or pursuant to state or federal privacy laws.

83 (c) No later than August 1, 2021, the oversight committee shall recommend to the
84 commission a process and plan for providing accredited lab testing of products produced
85 by licensees and for labeling such products. The commission shall consider the
86 recommendations of the oversight committee in adopting policies, procedures, and
87 regulations regarding such testing and labeling.

88 (d) The oversight committee may regularly seek input from patients and physicians as to
89 the availability and quality of products produced pursuant to this chapter, and recommend
90 to the commission changes to policies, procedures, and regulations to improve availability

91 and quality. The commission shall consider such recommendations in adopting policies,
92 procedures, and regulations."

93 **SECTION 5.**

94 Said article is further amended by revising subsection (a) of Code Section 16-12-211, relating
95 to Class 1 production licenses, application fees, revocation, and limitation of ownership, as
96 follows:

97 ~~"(a) The commission may issue up to two Class 1 production licenses.~~ A Class 1
98 production licensee shall be authorized to:

99 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited
100 to 100,000 square feet of cultivation space; and

101 (2) Manufacture low THC oil and products."

102 **SECTION 6.**

103 Said article is further amended by revising subsection (a) of Code Section 16-12-212, relating
104 to Class 2 production licenses, application fees, revocation, and limitation of ownership, as
105 follows:

106 ~~"(a) The commission may issue up to four Class 2 production licenses.~~ A Class 2
107 production licensee shall be authorized to:

108 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited
109 to 50,000 square feet of cultivation space; and

110 (2) Manufacture low THC oil and products."

111 **SECTION 7.**

112 Said article is further amended by revising Code Section 16-12-214, relating to study on
113 minority and women participation and addressing discrimination, as follows:

114 "16-12-214.

115 (a) Beginning January 1, ~~2022~~ 2025, the commission shall undertake a retrospective study
116 of the participation of minority and women owned businesses as licensees under this part
117 for the period from January 1, ~~2020~~ 2023, through December 31, ~~2021~~ 2024. Thereafter,
118 the commission shall conduct such study every four years for the immediately preceding
119 four-year period.

120 (b) The initial and subsequent studies conducted pursuant to subsection (a) of this Code
121 section shall identify any proof of discrimination based on race or gender in the issuance
122 of licenses under this part.

123 (c) In the event that any proof of discrimination based on race or gender in the issuance
124 of licenses under this part is identified, the commission shall be authorized to address such
125 proof of discrimination by:

126 (1) Issuing one additional Class 1 production license and two additional Class 2
127 production licenses to minority and women owned businesses;

128 (2) Reissuing any licenses that have been surrendered or revoked to minority or women
129 owned businesses; or

130 (3) A combination of the above.

131 (d) This Code section shall not require the commission to issue a license to any applicant
132 unless such applicant otherwise meets all requirements for licensure under this part.

133 (e) The additional licenses issued or reissued pursuant to this Code section shall be
134 awarded pursuant to a competitive application and review process as provided in Code
135 Section 16-12-221."

136 **SECTION 8.**

137 Said article is further amended by revising subsection (a) of Code Section 16-12-215, relating
138 to limitation on locations of licensees for the production, manufacturing, and dispensing of
139 low THC oil, as follows:

140 "(a) No licensee shall operate in any location, whether for cultivation, harvesting, and
141 processing of marijuana or for processing, manufacturing, packaging, or distributing low
142 THC oil or products, within a ~~3,000~~ 2,000 foot radius of a covered entity, measured from
143 property boundary to property boundary. No dispensing licensee may operate in any
144 location within a 1,000 foot radius of a covered entity, measured from property boundary
145 to property boundary. Notwithstanding the provisions of this subsection, local
146 governments may, via use of existing zoning powers otherwise provided by law, allow
147 dispensing licensees only to locate in places other than those provided in this subsection
148 so long as such modification is needed to allow retail outlets to be established to service
149 registered patients residing within such local jurisdiction. As used in this subsection, the
150 term 'covered entity' means a public or private school; an early care and education program
151 as defined in Code Section 20-1A-2; or a church, synagogue, or other place of public
152 religious worship, in existence prior to the date of licensure of such licensee by the
153 commission or State Board of Pharmacy."

154 **SECTION 9.**

155 Said article is further amended by revising Code Section 16-12-220, relating to confidential
156 nature of data, exclusion, and patient privacy, as follows:

157 "16-12-220.

158 (a) All working papers, recorded information, documents, and copies produced by,
159 obtained by, or disclosed to the commission pursuant to the activities conducted pursuant
160 to this part, ~~other than information published in an official commission report regarding the~~
161 ~~activities conducted pursuant to this article, shall be confidential data and shall not be~~
162 ~~subject to Article 4 of Chapter 18 of Title 50; provided, however, that any contract,~~
163 ~~memorandum of understanding, or cooperative endeavor agreement entered into by the~~
164 ~~commission pursuant to this article shall be subject to Article 4 of Chapter 18 of Title 50,~~
165 relating to open records.

166 (b) In no event shall the commission disclose any information that would reveal the
167 identity or health information of any registered patient or violate the federal Health
168 Insurance Portability and Accountability Act of 1996, Public Law 104-191."

169 **SECTION 10.**

170 Said article is further amended by revising Code Section 16-12-221, relating to contracts
171 awarded through bids or proposals, minimum contract terms and renewals, subcontracting,
172 and giving or receiving things of value limited, as follows:

173 "16-12-221.

174 (a) The commission shall ~~grant initial~~ issue two initial Class 1 production licenses and four
175 initial Class 2 production licenses. All initial and replacement licenses under this part shall
176 be issued pursuant to contracts awarded through competitive sealed bids or competitive
177 sealed proposals ~~as provided for~~ conducted by the Department of Administrative Services
178 in accordance with the state purchasing laws contained in Article 3 of Chapter 5 of Title
179 50. A qualified independent third party shall be retained by the commission to assist in the
180 development of the procurement solicitation documents and evaluation criteria, to review
181 and evaluate bids or proposals, and to make recommendations to the commission for
182 approval. Replacement licenses may be awarded for any licenses that expire or are revoked
183 or surrendered. After issuance of two initial Class 1 production licenses pursuant to Code
184 Section 16-12-211 and four initial Class 2 production licenses pursuant to Code Section
185 16-12-212, and in the event that the commission revokes a Class 1 or Class 2 production
186 license, a Class 1 or 2 production license is surrendered for any reason, or the commission
187 issues an additional Class 1 production license pursuant to Code Section 16-12-214, the
188 commission shall be authorized to issue any replacement Class 1 or Class 2 production
189 licenses in accordance with rules and regulations established by the commission for such
190 purpose. Such rules and regulations shall not otherwise conflict with this article, and to the

191 ~~extent practicable, such rules and regulations shall incorporate provisions and processes~~
 192 ~~similar to Article 3 of Chapter 5 of Title 50.~~

193 (b) In addition to the two initial Class 1 production licenses and four initial Class 2
 194 production licenses issued pursuant to this part, the commission shall issue one additional
 195 Class 1 production license and one additional Class 2 production license for every increase
 196 of 50,000 patients in the Low THC Oil Patient Registry established and maintained
 197 pursuant to Code Section 31-2A-18. Any such additional licenses shall be awarded in the
 198 manner provided in subsection (a) of this Code section.

199 ~~(b)(c)~~ Any contract for a license awarded pursuant to this subsection shall not be for less
 200 than five years and may contain provisions for automatic renewal.

201 ~~(c)(d)~~ No licensee shall subcontract for services for the cultivation or processing in any
 202 way of marijuana if the subcontractor, or any of the service providers in the chain of
 203 subcontractors, is owned wholly or in excess of 5 percent by any state employee or member
 204 of a state employee's immediate family, including but not limited to any legislator,
 205 state-wide public official, or employee of a designated university. For purposes of this
 206 subsection, the term 'immediate family member' means a spouse, child, sibling, or parent
 207 or the spouse of a child, sibling, or parent.

208 ~~(d)(e)~~ No licensee shall give or receive anything of value in connection with any contract,
 209 memorandum of understanding, or cooperative endeavor agreement executed pursuant to
 210 this part except the value that is expressed in the contract, memorandum of understanding,
 211 or cooperative endeavor agreement."

212 **SECTION 11.**

213 Said article is further amended by adding a new Code section to read as follows:

214 "16-12-221.1.

215 (a) The commission is directed to immediately exercise its right to cancel the competitive
 216 application request for proposals released on November 23, 2020, as provided for in such

217 request for proposals. The commission shall be immune from liability for exercising such
218 right to cancel and no applicant to such request for proposals shall have any standing to
219 maintain a civil action against the commission for exercising such right to cancel.

220 (b) The commission is directed to immediately take all necessary steps to purchase or
221 obtain, no later than August 1, 2022, low THC oil, cannabis, cannabinoids, or any other
222 derivative, compound, or substantially similar products from any available legal source in
223 such quantities as are necessary to reasonably meet the needs of all registered patients on
224 the Low THC Oil Patient Registry as of the effective date of this Act, which shall include
225 immediately taking all necessary steps to execute either or both of the following as needed:

226 (1) Enter into a contract with one or more qualified corporations or with one or more
227 governmental entities as authorized pursuant to paragraph (2) of Code Section 16-12-203;
228 and

229 (2) Issue a license to one or more designated universities for the production,
230 manufacturing, purchasing, or any combination thereof of low THC oil and products
231 pursuant to subsection (a) of Code Section 16-12-204, including approving any necessary
232 contracts between one or more designated universities with private entities to fulfill the
233 terms of the license, including for the production of low THC oil or products.

234 (c) The commission is directed to immediately take all necessary steps to provide for the
235 dispensing of the low THC oil and products purchased or obtained pursuant to
236 subsection (b) of this Code section. This shall include immediately taking all necessary
237 steps to execute any combination of the following as necessary in order to begin dispensing
238 low THC oil and products to registered patients on August 15, 2022:

239 (1) Facilitate the development of dispensing licenses for independent pharmacies in this
240 state by the State Board of Pharmacy pursuant to Code Section 16-12-206;

241 (2) Issue dispensing licenses to one or more designated universities pursuant to Code
242 Section 16-12-206; provided, however, that any such designated university may only
243 dispense in contracted off-site locations other than university owned property; and

244 (3) Directly dispense low THC oil and products to registered patients pursuant to
245 subsection (a) of Code Section 16-12-230.

246 (d) No later than December 31, 2022, the commission shall issue a new competitive
247 application request for proposals pursuant to Code Section 16-12-221 for the purpose of
248 awarding two initial Class 1 production licenses and four initial Class 2 production
249 licenses. An applicant that submitted a proposal and accompanying application fee for a
250 Class 1 or Class 2 production license pursuant to the competitive application request for
251 proposals released on November 23, 2020, may submit a proposal in response to the new
252 competitive application request for proposals without paying an additional application fee
253 associated with the applicable Class 1 or Class 2 production license for which the applicant
254 submitted a proposal.

255 (e) Beginning May 1, 2022, and monthly through June 30, 2023, the commission shall
256 provide the Medical Cannabis Commission Oversight Committee established pursuant to
257 Code Section 16-12-207 with a report on the ongoing status of the completion of the
258 commission's requirements under this Code section."

259 **SECTION 12.**

260 Said article is further amended by revising Code Section 16-12-231, relating to exemptions
261 from arrest, prosecutions, or penalty, as follows:

262 "16-12-231.

263 The following persons and entities, when acting in accordance with the provisions of this
264 article, shall not be subject to arrest, prosecution, or any civil or administrative penalty,
265 including a civil penalty or disciplinary action by a professional licensing board, or be
266 denied any right or privilege, for the medical use, prescription, administration,
267 manufacture, distribution, or transport of low THC oil or products:

268 (1) A registered patient who is in possession of an amount of low THC oil or products
269 authorized under Code Section 16-12-191 or such patient's caregiver, parent, or guardian;

- 270 (2) A physician who certifies a patient to the Department of Public Health as being
 271 diagnosed with a condition or in a hospice program and authorized to use low THC oil
 272 or products for treatment pursuant to Code Section 31-2A-18;
- 273 (3) A pharmacist or pharmacy that dispenses or provides low THC oil or products to a
 274 registered patient;
- 275 (4) The commission or its employees or contractors associated with the purchase,
 276 procurement, transport, manufacturing, distribution, dispensing, or production of low
 277 THC oil or products or cannabis used to produce such low THC oil or products in
 278 accordance with this article;
- 279 (5) A designated university, an employee of a designated university, or any other person
 280 associated with the purchase, procurement, transport, manufacturing, distribution,
 281 dispensing, or production of low THC oil or products or cannabis used to produce such
 282 low THC oil or products in accordance with this article; and
- 283 (6) An employee, contractor, or agent of a licensee with proper identification associated
 284 with the production, manufacture, distribution, transport, or sale of low THC oil or
 285 products in accordance with this article."

286

SECTION 13.

287 Code Section 31-2A-18 of the Official Code of Georgia Annotated, relating to the Low THC
 288 Oil Patient Registry, is amended by revising paragraph (3) of subsection (a) as follows:

289 "(3) 'Condition' means:

- 290 (A) Cancer, when such disease is diagnosed as end stage or the treatment produces
 291 related wasting illness or recalcitrant nausea and vomiting;
- 292 (B) Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end
 293 stage;
- 294 (C) Seizure disorders related to a diagnosis of epilepsy or trauma related head injuries;
- 295 (D) Multiple sclerosis, when such disease is diagnosed as severe or end stage;

- 296 (E) Crohn's disease;
297 (F) Mitochondrial disease;
298 (G) Parkinson's disease, when such disease is diagnosed as severe or end stage;
299 (H) Sickle cell disease, when such disease is diagnosed as severe or end stage;
300 (I) Tourette's syndrome, when such syndrome is diagnosed as severe;
301 (J) Autism spectrum disorder, when such disorder is diagnosed for a patient who is at
302 least 18 years of age, or severe autism, when diagnosed for a patient who is less than 18
303 years of age;
304 (K) Epidermolysis bullosa;
305 (L) Alzheimer's disease, when such disease is diagnosed as severe or end stage;
306 (M) Acquired immune deficiency syndrome, when such syndrome is diagnosed as
307 severe or end stage;
308 (N) Peripheral neuropathy, when such symptoms are diagnosed as severe or end stage;
309 (O) Post-traumatic stress disorder resulting from direct exposure to or the witnessing
310 of a trauma for a patient who is at least 18 years of age; ~~or~~
311 (P) Intractable pain; or
312 (Q) Ulcerative colitis."

313 **SECTION 14.**

314 This Act shall become effective upon its approval by the Governor or upon its becoming law
315 without such approval.

316 **SECTION 15.**

317 All laws and parts of laws in conflict with this Act are repealed.