

HOUSE BILL 637

By Travis

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 38, Chapter 3; Title 39, Chapter 17; Title 43;
Title 50; Title 53; Title 63; Title 67 and Title 68,
relative to the "Tennessee Medical Cannabis Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2 through 16 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Tennessee Medical Cannabis Act."

SECTION 3.

The general assembly intends to establish a functional framework within which to authorize access to medical cannabis on a regulated basis for patients with qualifying medical conditions and which licenses and regulates the processes for cultivation, production, distribution, transport, selling, and acquiring cannabis for medical use and research. The broad purpose of the Tennessee Medical Cannabis Act is to increase low-cost public health options, alleviate suffering, develop agricultural business, incentivize research of THC benefits, and expeditiously license and track medical cannabis from cultivation to point of sale within the boundaries of this state. The general assembly recognizes that as of 2018, thirty-three (33) states, including Tennessee border states Missouri and Arkansas as well as Illinois, have legalized access to medical cannabis for many medical conditions. More than two-thirds (2/3) of the population in the United States currently have access to medical cannabis through other state programs. Additionally, the general assembly recognizes that peer-reviewed medical

studies have established a statistical correlation between reduced opioid-use overdoses in states with medical cannabis programs.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Adjacent" means a county that shares a contiguous county line boundary with a primary county;

(2) "Cannabis" means all parts of any plant of the genus cannabis, whether growing or not, including the seeds, extractions of any kind from any part of the plant, and every compound, derivative, mixture, product, or preparation of the plant;

(3) "Caregiver" means a resident of this state who:

(A) Is eighteen (18) years of age or older;

(B) Meets the regulatory requirements under this chapter; and

(C) Has agreed to assist with the medical use of cannabis of another person with, or by applying for, a medical cannabis card;

(4) "Certification" means a document dated and signed by a physician, physician's assistant, nurse practitioner, or as approved by the medical cannabis board, confirming that a person has been diagnosed with a qualifying condition under this chapter;

(5) "Commission" means the medical cannabis commission;

(6) "Department" means the department of agriculture;

(7) "Dispensary" means a licensed, enclosed, secure building that may include attached storage units, where cannabis and related supplies are maintained, stored, and sold to patients and caregivers. A dispensary shall not be physically connected to a cannabis cultivation, processing, or manufacturing facility;

(8) "Enclosed facility" means a locked and secured building, room, greenhouse, or warehouse that maintains security and is accessible only to persons who are employed or contracted by a licensed provider, or who have provided state or federally issued photo identification;

(9) "Fast track license" means the first run of licenses under this chapter that are issued provisionally before rulemaking is complete, and which are to be finally approved or denied no later than November 15, 2020;

(10) "Licensed Provider" means a business entity that, meeting the requirements under this chapter through a competitive process, has been awarded a license to cultivate, process, transport, dispense, sell, contract with franchise dispensary partners, and otherwise deliver cannabis products for use by qualified patients;

(11) "License Registry" means a documented, electronic, and integrated tracking system for licensing all aspects of processing from cultivation to point of sale;

(12) "Medical cannabis card" means a valid, state-issued card under this chapter, or a valid card from another state that has legalized the use of medical cannabis;

(13) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of cannabis authorized by this chapter. "Medical use" does not include possession, use, or administration of cannabis that was not purchased or acquired from a licensed provider;

(14) "Patient registry" means a documented, electronic, and integrated medical cannabis card system for patient registration;

(15) "Primary county" means the county designated on the license application as the location where a plurality or majority, as applicable, of the licensee's operations will exist;

(16) "Qualified patient" means a resident of this state who has been diagnosed with a qualifying condition, and who has met the requirements to obtain a medical cannabis card;

(17) "Qualifying condition" means any of the following conditions diagnosed by a healthcare provider, including a medical doctor, physician's assistant, or nurse practitioner:

- (A) Cancer;
- (B) Glaucoma;
- (C) Epilepsy;
- (D) HIV/AIDS;
- (E) Crohn's disease;
- (F) Muscular sclerosis;
- (G) Opioid addiction;
- (H) Renal failure;
- (I) Severe nausea or chronic pain;
- (J) Any medical condition producing cachexia, persistent muscle spasm,

or seizures;

- (K) Post traumatic stress syndrome;
- (L) Chronic radiculopathy;
- (M) Severe psoriasis;
- (N) Post-laminectomy syndrome;
- (O) Psoriatic arthritis;
- (P) Complex pain syndrome, including trigeminal neuralgia, amyotrophic lateral sclerosis (ALS), and Parkinson's disease;
- (Q) End-of-life pain management or palliative care;
- (R) The following conditions if the patient is younger than eighteen (18)

years of age:

- (i) Cerebral palsy;

- (ii) Cystic fibrosis;
- (iii) Osteogenesis imperfecta; and
- (iv) Muscular Dystrophy;

(S) Terminal conditions; and

(T) Any additional conditions approved by the commission pursuant to rule-making;

(18) "Terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible without the administration of life-sustaining procedures, and is expected to result in death within one (1) year after diagnosis if the condition runs its normal course;

(19) "THC" means delta-9-tetrahydrocannabinol, an active ingredient in cannabis; and

(20) "Track and trace system" means a documentary and electronic process:

(A) By which the chain of custody from cannabis seed to point of sale is detailed and documented to identify, at a minimum, the species of plant, its geographic point of cultivation, and method of transportation, if any, beyond its point of cultivation to the final point of sale and product; and

(B) Used to monitor the chain of custody for all cannabis and cannabis products used for medical purposes from the point of cultivation to the end consumer and to ensure products comply with this chapter.

SECTION 5.

(a) A person shall not acquire, possess, or use a medical cannabis product without a valid medical cannabis card issued pursuant to this chapter. A medical cannabis card may only be issued to a qualified patient or qualifying caregiver.

(b) In order to qualify for and obtain a medical cannabis card from the commission, a patient must:

(1) Be eighteen (18) years of age or older;

(2) Provide proof of residency in this state by means of state-issued photo identification;

(3) Complete and sign a written application form, which must not be longer than two (2) pages in length, subject to the penalties of perjury set out in § 39-16-702;

(4) Pay an application fee of sixty-five dollars (\$65.00), or other amount as determined by the commission; and

(5) Submit either:

(A) A written document signed and dated by a healthcare provider confirming that the patient has been diagnosed with a qualifying condition; or

(B) The patient's medical records from a healthcare provider confirming that the patient has been diagnosed with a qualifying medical condition; provided, that the records must be reviewed and accepted by the commission as adequate proof that the patient requesting the card has been so diagnosed.

(c) In order for a medical cannabis card to be issued by the commission to a parent or legal guardian of a minor for use by the minor, a parent or legal guardian must:

(1) Obtain a diagnosis from a physician licensed in this state that the minor suffers from a qualifying condition;

(2) Complete the application for minors, which must not be longer than two (2) pages in length, and copies of the physician recommendation and proof of diagnosis of a qualifying condition; and

(3) Submit proof that the parent or legal guardian has qualified as a caregiver under subsection (d).

(d) A qualified patient may designate a caregiver to assist with the purchase and use of medical cannabis. If a qualified patient is under eighteen (18) years of age, only a caregiver may purchase or administer cannabis to the qualified patient. When a qualified patient has a designated caregiver, only the designated caregiver is authorized to purchase cannabis; a patient with a designated caregiver is not authorized to purchase cannabis. In order to qualify for and obtain a medical cannabis card, a caregiver must:

(1) Be eighteen (18) years of age or older;

(2) Provide proof of residency in this state by means of state-issued photo identification;

(3) Pay an application fee of sixty-five dollars (\$65.00), or other amount as determined by the commission;

(4) Have no ownership interest in or contract or employment relationship with a licensed provider, dispensary, or testing facility; and

(5) Identify each patient for whom the caregiver provides care, including a confirmation of the caregiver relationship in writing from each qualified patient; provided, that a caregiver is not authorized to provide care to more than ten (10) qualified patients at any given time.

(e) A registered caregiver may lawfully acquire and possess cannabis, but not use cannabis under this chapter without the caregiver actually being diagnosed with a

qualifying medical condition and issued a medical cannabis card as a qualified patient. In order for a caregiver to act on behalf of a minor or adult patient to purchase, possess, and administer medical cannabis, the caregiver must obtain the caregiver medical cannabis card, and the patient must have a valid patient medical cannabis card, issued by the commission. A caregiver may receive compensation from the qualified patient or other entity for any services provided to the qualified patient.

(f) This state shall recognize and give reciprocity to medical cannabis cards issued in other states. A cardholder from another state is allowed temporary access to dispensaries in this state under the conditions authorized by the commission in accordance with rules promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 6. This chapter supersedes state criminal and civil laws pertaining to the acquisition, possession, use, cultivation, manufacturing, processing, research and development, and sale of medical cannabis. The acquisition, possession, use, cultivation, manufacturing, processing, research and development, or sale of medical cannabis in compliance with this chapter, and as approved by the commission, does not constitute a violation of § 39-17-417, § 39-17-418, or any other law to the contrary.

SECTION 7.

(a) In order to obtain a medical cannabis card, except for a medical cannabis card for a minor, the diagnosis of a qualifying condition must be made by one (1) of the following healthcare providers:

- (1) A medical doctor licensed to practice medicine in this state;
- (2) A physician's assistant licensed in this state; or
- (3) A nurse practitioner licensed in this state.

(b) The diagnosis must be in writing and clearly stated in the patient's medical records or in a written document signed and dated by the healthcare provider confirming that the patient has been diagnosed with a qualifying condition.

(c) No later than July 31, 2020, the commission shall ensure that a process is available for healthcare providers to electronically report a qualifying diagnosis as part of the patient medical cannabis card registry process.

SECTION 8.

(a) In order to commence, use, and maintain a reliable patient registry system, by no later than July 31, 2020, the commission shall:

(1) Publish application forms and procedures for obtaining all patient and caregiver medical cannabis cards; and

(2) Establish and commence using an integrated, electronic registry system to:

(i) Track the medical cannabis card application process through issuance or denial; and

(ii) Track medical cannabis cards that are denied, issued, revoked, suspended, or reinstated.

(b) The department of agriculture and law enforcement must have access to the patient registry in order to avoid counterfeiting of cards, minimize illegal usage, and to attain maximum compliance with this chapter.

(c) Medical cannabis cards expire two (2) years from the date of issuance and are authorized to be renewed after payment of a sixty-five-dollar renewal fee, or other amount as determined by the commission.

(d) All medical cannabis card applications must be signed with an affirmation that the information provided is true and correct to the best of the person's knowledge,

and false statements may result in criminal penalties, denial, revocation, or suspension of the medical cannabis card, and each person holding a card must be locatable in the registry system with adequate identifying information. Each card must clearly state an expiration date after which it is no longer valid.

(e) By no later than July 31, 2020, the commission shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that include criteria by which medical cannabis cards may be revoked, suspended, and reissued. No rule shall prohibit the issuance or use of a medical cannabis card based on an arrest for any felony or misdemeanor unless the arrest is for a violation of this chapter. In the event a medical cannabis card is revoked by the commission, the most recently paid registration fee is to be refunded to the cardholder.

SECTION 9.

(a) In order to carry out this chapter and establish functional processes, there is created and established the Tennessee medical cannabis commission, to consist of nine (9) members. By no later than August 30, 2019, the members are to be appointed by the governor, after receiving three (3) appointment recommendations from the speaker of the senate, and three (3) appointment recommendations from the speaker of the house of representatives. If recommendations from the speakers are not delivered to the governor by August 12, 2019, the governor may proceed on all nine (9) appointments. The members comprising the commission must be at least thirty (30) years of age, United States citizens, and residents of this state for at least five (5) continuous years immediately preceding their appointment. In order for commission members to be qualified individuals with experience in complex agriculture, health, science, business, and government systems, the governor shall appoint:

(1) One (1) person with professional experience in industrial or agricultural systems management, including commodities, manufacturing, or distribution in a regulated industry;

(2) One (1) person with professional experience in legal or social justice issues related to a regulated industry;

(3) One (1) person with professional experience in public health, mental health, substance use, or toxicology, and

(4) At least one (1) person:

(A) Experienced in multiple crop development and agricultural practices, as recommended by the speaker of the senate; and

(B) Experienced in public or rural land use management, as recommended by the speaker of the house of representatives.

(b) Any person registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6, who is subsequently appointed or otherwise named as a member of the commission shall terminate all employment and business association as a lobbyist. No person who is a member of the commission may be registered as a lobbyist.

(c) Each commissioner shall serve a term of four (4) years, but may be reappointed for one (1) additional term at the pleasure of the governor. In the event a vacancy occurs, the governor shall appoint a person to fill the vacancy for the unexpired term.

(d) Commissioners may be removed for cause by the governor. Commissioners shall not miss more than three (3) meetings in one (1) calendar year.

(e) Each member of the commission must receive seven hundred dollars (\$700) for each meeting of the commission that the member attends. The members of the commission must also be reimbursed for their actual and necessary expenses incurred

in connection with their official duties. All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(f) The official domicile of the commission is to be in Nashville. All meetings of the commission are to be held in Nashville.

(g)

(1) The commission shall elect one (1) of its own members as chair, and the commission shall meet at least one (1) time in Nashville each month and hold such other meetings for any period of time as may be necessary for the commission to transact and perform its official duties and functions. A majority of members of the commission constitute a quorum for the transaction of any business, or in the performance of any duty, power, or function of the commission, and the concurrence of a majority of those present and voting in any matter within its duties is required for a determination of matters within its jurisdiction. The commission may hold a special meeting at any time it deems necessary and advisable in the performance of its official duties. A special meeting may be called by the chair, or upon the written request of two (2) or more members. All members shall be duly notified by the commission secretary of the time and place of any regular or special meeting at least five (5) days in advance of any meeting. The chair is responsible for setting and keeping a meeting schedule that ensures the commission meets this chapter's intent, purposes, and deadlines.

(2) Notwithstanding subdivision (g)(1):

(A) The commission shall hold a minimum of two (2) regularly scheduled meetings each month in the first twelve (12) months commencing no later than September 16, 2019. The purpose of this meeting schedule is to:

(i) Expeditiously create and publish an application form for medical cannabis cards;

(ii) Establish a website for public access and information;

(iii) Review, approve, or deny fast track license applications; and

(iv) Draft rules and emergency rules for promulgation in accordance with this chapter and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(B) After promulgating initial rules, issuing the fast track licenses, and publishing the patient medical cannabis card application forms and procedures, the commission may reduce meetings to one (1) per month or vote on a schedule appropriate for meeting all obligations under this chapter regarding patient medical cannabis cards.

(h) The commission is authorized to appoint a director to serve at the pleasure of the commission. The director's salary shall be fixed by the commission with the approval of the appropriate state officials as now required by law. The office of the director is to be in Nashville.

(i) The director must be at least thirty (30) years of age and have been a citizen and resident of this state for at least five (5) years prior to appointment. The director must be licensed to practice law in this state. The director is to be designated as director, Tennessee medical cannabis commission.

(j) The director is the chief administrative officer of the commission and all personnel employed by the commission are to be under the director's direct supervision. The director is solely responsible to the commission for the administration and enforcement of this chapter and is responsible for the performance of all duties and functions delegated by the commission.

(k) The director shall keep and be responsible for all records of the commission and also serve as secretary of the commission. The director shall prepare and keep the minutes of all meetings held by the commission, including a record of all business transacted and decisions rendered by the commission. A copy of the record of the minutes and business transacted and decisions rendered shall be kept on file at the department of agriculture and open to public inspection.

(l) The commission is authorized to appoint an assistant director who shall perform such duties and functions which may be assigned by the director or the commission. The assistant director, if licensed to practice law in this state, may also be designated by the commission to sit, act, and serve as a hearing officer, and when designated as a hearing officer, the assistant director is authorized to perform the same duties and functions as the regular hearing officer.

(m) The director and assistant director are to be reimbursed for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(n) The director shall act and serve as hearing officer when designated by the commission and shall perform such duties as the regular hearing officer.

(o) In any action or suit brought against the members of the commission in their official capacity in a court of competent jurisdiction, to review any decision or order

issued by the commission, service of process issued against the commission may in their absence be lawfully served or accepted by the director on behalf of the commission as though the members of the commission were personally served with process.

(p) The commission is directed to coordinate with the department of agriculture to appoint a chief inspection and enforcement officer who shall serve under the commissioner of agriculture. The chief inspection and enforcement officer must:

(1) Be under the immediate supervision of the director;

(2) Be at least thirty (30) years of age;

(3) Have been a citizen and resident of this state for at least five (5) years prior to appointment;

(4) Have had experience and training in agricultural inspections and qualifications identical to that required for members of the Tennessee bureau of investigation; and

(5) Be reimbursed for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(q) The director, the chief inspection and enforcement officer, and all other inspection and enforcement personnel must be employed only on a full-time basis.

(r) In order to assist the commission and staff with establishing a functional program and achieving compliance with applicable laws, the commission is authorized and directed to retain legal counsel familiar with requirements of this chapter and medical cannabis licensing and best practices in other states.

SECTION 10.

(a) A person is not eligible to be appointed as a member of the commission, or employed in any capacity by the commission, if such person has any interest, financial

or otherwise, either direct or indirect, in any dispensary, cultivation, or manufacturer licensed as such in this state. No family member, including spouse, child or children, father or mother, niece or nephew by blood or marriage, son-in-law or daughter-in-law, may be employed by any dispensary, cultivator, or manufacturer nor may any family member hold or have issued to them any cannabis license in this state. No such person may:

(1) Have interest of any kind in any building, fixtures, or in the premises occupied by any person, firm, or corporation licensed under this chapter; or

(2) Own any stock or have any interest of any kind, direct or indirect, pecuniary or otherwise, by a loan, mortgage, gift, seeking a loan, or guaranteeing the payment of any loan, in any dispensary, cultivation, or manufacturer licensed under this chapter.

(b) A member of the commission or a person employed by the commission shall not accept any gift, favor, merchandise, donation, contribution, or any article or thing of value, from any person, firm, or corporation licensed under this chapter.

(c) A person shall not conspire with any other person to violate this section or attempt to violate this section.

(d) Any person violating this section is to be dismissed and discharged from employment or position, and as a consequence such person shall forfeit any pay or compensation which might be due.

(e) A violation of this section is a Class C misdemeanor.

SECTION 11.

(a) The commission has the power and responsibility to implement this chapter by making medical grade cannabis available to qualified patients. In order to facilitate an initial level of product availability and avoid a program delay dependent on rulemaking,

the commission shall expeditiously review and issue approved provisional fast track licenses no later than April 1, 2020. By July 31, 2020, the commission shall expeditiously review and commence approval of all medical cannabis card requests that meet the requirements of this chapter.

(b) To provide certainty to the public and participating businesses and to implement this chapter and perform all regulatory responsibilities, the commission shall move expeditiously to promulgate rules by July 31, 2020. The commission is fully empowered to adopt, change, and enforce rules to implement the statutory duties outlined in this chapter.

(c) In order to finalize fast track licensing, the commission shall adhere to the deadlines and time limits specified in this chapter. Provisional approval of fast track rural and urban licenses must be completed by April 1, 2020. Final approval or denial of the provisional fast track licenses must be completed by November 15, 2020. The commission shall promulgate rules that establish on-site inspection criteria applicable in the final approval or denial process for provisional fast track licenses.

(d) The commission shall procure and utilize a secure, online system for patient registration and seed-to-sale tracking. All data related to the implementation of this chapter, including, but not limited to, application forms, licensing information, registration of medical cannabis card holders and caregivers, compliance, and the status of cannabis research programs must be maintained in a secure system developed or procured by the commission. Data shall not be sold, and patient information shall remain confidential and not be transferred or sold.

(e) The commission shall provide annual written reports, with the first due no later than July 31, 2020, tracking implementation of this Act. The report must be made publicly available and posted on the commission's website. The report must include:

- (1) The number of patients applying for and receiving medical cannabis cards;
- (2) The qualifying conditions identified to obtain the cards;
- (3) Comments from healthcare providers and pharmacists;
- (4) Revenues and expenses of card issuance and business licensing;
- (5) Relevant developments in other states' cannabis laws;
- (6) Relevant scientific research;
- (7) Applicable tax revenue;
- (8) The Commission's operating budget; and
- (9) Any other information available to the commission that would inform public officials of how this chapter affects the public.

SECTION 12.

(a) A person shall not produce, process, dispense, possess, or use a medical cannabis product without a valid medical cannabis card issued pursuant to this chapter. A medical cannabis card may only be issued to a qualified patient or qualifying caregiver.

(b) All of the cultivation, processing, transportation, manufacturing, packaging, dispensing, sale, and use of any form of medical cannabis is subject to licensing under this chapter. The commission shall license all medical cannabis providers to ensure statewide patient access to pharmaceutical grade cannabis and to ensure compliance with this chapter.

SECTION 13.

(a) In order to expeditiously establish licensing for cultivation and processing of medical cannabis and in recognition of the time necessary to construct appropriately secure growing facilities and to cultivate the necessary strains of cannabis, the

commission has the duty and responsibility to issue provisional licenses in accordance with this section and in advance of the July 31, 2020, rulemaking deadline. A provisional fast track license shall not be finally approved or denied until after an onsite inspection of all facilities pursuant to rules promulgated by the commission.

(b) Provisional fast track licenses are categorized as urban omni licenses and rural vertically integrated (RUVI) licenses. Each category of provisional fast track license is to be issued in accordance with and subject to the following:

(1) For urban omni licenses:

(A) No later than April 1, 2020, the Commission shall issue no more than three (3) urban omni licenses in each county having a population of more than three hundred thirty six thousand four hundred (336,400), according to the 2010 federal census or any subsequent federal census. Such license authorizes the licensee to conduct all activities from cultivation to sale within the designated county of operation. The licensee shall not operate outside the county designated in the application, except that transportation of materials or product outside of the county is authorized and sales to a RUVI licensee may occur upon receipt of a waiver issued by the commission;

(B) The maximum number of urban omni licenses available to be issued in this state is twelve (12);

(C) An entity applying for an urban omni license shall pay the department an application fee of eighty-five thousand dollars (\$85,000), of which, fifteen thousand (\$15,000) is non-refundable;

(D) The entity's majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of

no less than five (5) years preceding the application date, and an individual with proof of residency in this state for a continuous period of no less than five (5) years preceding the application date must serve as an officer or director of the entity;

(E) The entity shall submit a detailed business and operations plan for its proposed activities within one (1) or more counties. Such plan must include, but is not limited to:

(i) Identification of each individual with a financial interest in the entity;

(ii) Identification of each business entity with a financial interest in the entity;

(iii) A proposed location with street address, which shall not be within a one-thousand foot (1,000 ft.) radius of any pre-K, elementary, or secondary school;

(iv) A full list of activities such as cultivation, drying, processing, and dispensing, to be undertaken by the entity;

(v) A summary of projected tenant improvements, production schedule, products, production capacity, standard operating procedures, target customer base, and projected open date;

(vi) Identification of all corporate officers and summaries of the business experience for each person expected to be responsible for facility operations; and

(vii) An attestation statement and signature from a responsible corporate officer affirming that the contents are true

and correct under penalty of perjury to the best of the officer's personal knowledge;

(F) If the license is granted, the full eighty-five thousand dollar (\$85,000) fee becomes non-refundable. In the event the provisional license is denied due to any failure by the entity to provide information as requested by the commission or due to the failure by the entity to pass the on-site inspection, the commission may deem up to thirty-eight thousand three hundred dollars (\$38,300) of the fee to be non-refundable to offset administrative costs;

(G) All owners, officers, board members, and managers of the applying entity must, during the application and operation period, pass a federal bureau of investigation level 2 background screening process, which is to be documented on the application materials prior to final review and approval;

(H) Any written request for additional information from the commission must be provided promptly by the applying entity, and in no event later than sixty (60) days after receiving notice of the request; and

(I) The commission shall issue a final decision to approve or deny the urban omni license for each such application only after determining that the conditions under this subdivision (b)(1) are met, all fees are paid, and an onsite inspection of the facility was conducted. The onsite inspection may occur before or after July 31, 2020. Final decisions to approve or deny an urban omni license must be made and published no later than November 15, 2020; and

(2) For rural vertically integrated (RUVI) licenses:

(A) No later than March 1, 2020, the commission shall issue no more than four (4) RUVI licenses in each grand division of this state; provided that a RUVI license shall not be issued for a county eligible for an urban omni license. Such license authorizes the licensee to conduct all activities from cultivation to sale;

(B) The maximum number of RUVI licenses available to be issued in this state is twelve (12);

(C) An entity applying for a RUVI license shall pay the department a nonrefundable application fee of forty-five thousand dollars (\$45,000);

(D) The entity's majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of no less than five (5) years preceding the application date, and an individual with proof of residency in this state for a continuous period of no less than five (5) years preceding the application date must serve as an officer or director of the entity;

(E) The entity shall submit a detailed business and operations plan for its proposed activities within a designated county and the grand division in which it is located. A RUVI licensee may, upon final approval, operate in the county designated in its application, and in any adjacent county sharing a border with the designated county. Such plan must include, but is not limited to:

(i) Identification of each individual with a financial interest in the entity;

(ii) Identification of each business entity with a financial interest in the entity;

(iii) A proposed location with street address, which shall not be within a one-thousand foot (1,000 ft.) radius of any pre-K, elementary, or secondary school;

(iv) A full list of activities such as cultivation, drying, processing, and dispensing, to be undertaken by the entity;

(v) A summary of projected tenant improvements, production schedule, products, production capacity, standard operating procedures, target customer base, and projected open date;

(vi) Identification of all corporate officers and summaries of the business experience for each person expected to be responsible for facility operations; and

(vii) An attestation statement and signature from a responsible corporate officer affirming that the contents are true and correct under penalty of perjury to the best of the officer's personal knowledge;

(F) If the license is granted, the full forty-five thousand dollar (\$45,000) fee becomes nonrefundable. If the application is denied, forty thousand dollars (\$40,000) of the fee is refundable; except that in the event the provisional license is denied due to any failure by the entity to provide information as requested by the commission or due to the failure by the entity to pass the on-site inspection, the commission may deem up to eighteen thousand three hundred dollars (\$18,300) of the fee to be non-refundable to offset administrative costs;

(G) A RUVI licensee is expressly authorized to conduct business activities in its primary county, and to aggregate cultivation, processing, and manufacturing of medical cannabis in adjacent counties;

(H) A RUVI licensee is expressly authorized to work cooperatively with up to six (6) additional entities or persons at an equal number of additional physical locations in order to cultivate, process, or manufacture medical cannabis as long as:

(i) The locations of such cooperative activities are located within the licensee's primary county or adjacent county;

(ii) Each cooperative entity, or person, and location is fully disclosed with names and addresses included in the application; and

(iii) Each such entity or person has agreed in writing with the RUVI licensee to operate in accordance with this chapter;

(I) All owners, officers, board members, and managers of the applying entity must, during the application and operation period, pass a federal bureau of investigation level 2 background screening process, which is to be documented on the application materials prior to final review and approval;

(J) Any written request for additional information from the commission must be provided promptly by the applying entity, and in no event later than sixty (60) days after receiving notice of the request; and

(K) The commission shall issue a final decision to approve or deny the RUVI license for each such application only after determining that the conditions under this subdivision (b)(2) are met, all fees are paid,

and an onsite inspection of the facility was conducted. The onsite inspection may occur before or after July 31, 2020. Final decisions to approve or deny a RUVI license must be made and published no later than November 15, 2020.

(c) The commission shall set a schedule regarding final approvals and denials of urban omni and RUVI licenses under the fast track program. Final decisions shall not be delayed past November 15, 2020.

(d) Each urban omni licensee is authorized to own and operate up to three (3) dispensaries per license, each of which must be located in the primary county. Each rural vertical integration licensee is authorized to own and operate up to three (3) dispensaries per license, each of which must be located within the primary county or an adjacent county.

(e) The commission shall issue or deny urban omni and RUVI licenses based on compliance with statutory requirements and the applicant's business plan as it relates to:

(1) The applicant's ability to capitalize and conduct operations as proposed in its business plan, including business experience in related fields such as agriculture, real estate, development, manufacturing, or retail sales;

(2) The applicant's history of business activities as it applies to the entity and the individuals who are the entity's owners, officers, and managers;

(3) The proposed location of all operations as being suitable for all activities, not inconsistent with applicable zoning, and able to serve an identifiable geographic area; and

(4) A detailed operational plan and the financial ability to meet it.

(f) Pursuant to its rulemaking authority, the commission shall authorize an additional number of licenses that are based on market demand for stand-alone

dispensaries, stand-alone cultivation, and stand-alone processing or manufacturing facilities and for similar vertically integrated operations described in the fast track licensing program. In promulgating the rules, the commission, in consultation with the department, shall incorporate and streamline the licensing requirements and criteria set out in this chapter.

(g) Any transfer of license or change of ownership must comply with the requirement the transferee or new majority ownership must be attributable to an individual with proof of residency in Tennessee for a continuous period of no less than five (5) years preceding the date of the application for the transfer of license or change in ownership, and an individual with proof of residency in Tennessee for a continuous period of no less than five (5) years preceding the application date must serve as an officer or director of the entity. Any entity or individual applying to transfer or sell any license may only do so in accordance with rules promulgated by the commission.

SECTION 14.

(a) The department shall perform all statutory and regulatory inspection and enforcement requirements under this chapter. Costs related to department staffing needs and implementation and enforcement of this chapter are to be borne by the commission.

(b) All product testing shall be performed during, cultivation, manufacture, and final processing before sale.

(c) The protocols for testing must include the following, as well as a determination of corresponding tolerance limits:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbials;

- (4) Mycotoxins;
- (5) Residual pesticides; and
- (6) Residual solvents.

SECTION 15.

(a) This state hereby preemptively regulates medical cannabis from seed to sale to use and shall reasonably regulate and control all aspects of industry to meet the stated intent of this chapter. Any county or municipality seeking to ban the cultivation, processing, manufacture, or sale of medical cannabis within its jurisdiction is authorized to do so by a two-thirds ($\frac{2}{3}$) vote of the local legislative body; provided, that the vote occurs no later than July 31, 2020. A county or municipality is authorized to tax the sale of medical cannabis in accordance with title 67, chapter 6, part 2; provided, that such tax must not exceed two and one-tenth percent (2.1%).

(b) For the exercise of the privilege of engaging in the business of selling medical cannabis in this state, a tax is levied on the sales price of medical cannabis when sold at retail in this state. Notwithstanding title 67, chapter 6, the tax is levied at the rate of nine percent (9.0%) of the sales price.

(c) All persons, except for RUVI licensees, doing business in this state shall pay to the commissioner of revenue, annually, an excise tax, in addition to all other taxes, equal to ten percent (10%) of the net earnings for the next preceding fiscal year for business done in this state during that fiscal year.

(d) There is created a special account in the state treasury to be known as the "medical cannabis fund." All moneys collected pursuant to this chapter must be transmitted to the department of revenue, who shall deposit the same in the medical cannabis fund. Moneys in the fund may be invested by the state treasurer in accordance with § 9-4-603. Notwithstanding any law to the contrary, interest accruing

on investments and deposits of the medical cannabis fund must be credited to the fund, must not revert to the general fund, and must be carried forward into the subsequent fiscal year. Except as provided in subsection (e), expenditures from the medical cannabis fund may be made only to implement and administer this chapter. Specifically, the medical cannabis fund includes:

- (1) Fees collected by the commission;
- (2) Excise tax revenues received pursuant to subsection (c);
- (3) Sales tax revenues received pursuant to subsection (b); and
- (4) Any moneys appropriated to the fund by the general assembly for the

initial operation of the commission.

(e) Tax collected from the retail sale of medical cannabis must be apportioned and allocated in the following manner:

- (1) Ten percent (10%) to the Tennessee bureau of investigation for opioid and methamphetamine drug enforcement purposes;
- (2) Twenty-five percent (25%) to the department of agriculture for programs and grants administered by the department that facilitate agricultural development in this state, including, but not limited to, the agriculture enterprise fund and the Tennessee agricultural enhancement program;
- (3) Twenty percent (20%) to the department of economic and community development for community and rural development program grants administered by the department; and
- (4) Forty-five percent (45%) to the medical cannabis fund.

(f) Upon a determination by the general assembly that the commission has established sufficient revenues for the administration of this chapter, the general assembly shall direct the department of revenue to transfer any excess balance in the

medical cannabis fund to the general fund to repay any appropriation made by the general assembly in the implementation of this chapter.

SECTION 16.

This chapter does not:

- (1) Require an insurer, organization for managed care, or any person or entity who provides coverage for a medical or healthcare service to pay for or reimburse a person for costs associated with the medical use of cannabis;
- (2) Require any employer to allow the medical use of cannabis in the workplace or to modify the job or working conditions of a person who engages in the medical use of cannabis that are based upon the reasonable business purposes of the employer; or
- (3) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

SECTION 17. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 18. This act shall take effect upon becoming a law, the public welfare requiring it.