

SENATE BILL NO. 621

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on _____)

(Patron Prior to Substitute--Senator Dunnavant)

A BILL to allow certain pharmaceutical processors to sell cannabis products at retail; sunset.

Be it enacted by the General Assembly of Virginia:

1. § 1. That, notwithstanding any other provision of law, the Board of Pharmacy shall allow any pharmaceutical processor that holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia to sell cannabis products as defined in § 54.1-3408.3 of the Code of Virginia to persons who are 21 years of age or older without the need for a written certification. All sales and related activities conducted pursuant to this act shall be subject to all regulations governing pharmaceutical processors set forth in 18VAC110-60 of the Virginia Administrative Code, subject to the following exceptions and requirements:

1. Part II (18VAC110-60-30 et seq.) of 18VAC110-60 and 18VAC110-60-310 of the Virginia Administrative Code shall not apply;

2. Pharmaceutical processors engaging in sales pursuant to the provisions of this act shall:

a. Sell cannabis products only in opaque, child-resistant, tamper-evident, and resealable packaging;

b. Report quarterly to the Board of Pharmacy data regarding all sales conducted pursuant to this act, including information regarding violations, errors, and omissions;

c. Be permitted to cultivate the number of cannabis plants, as determined by the pharmaceutical processor, necessary to serve the demand for sales created by this act;

d. Dedicate a sufficient number of registers at each facility to patients with a written certification and maintain sufficient inventory of cannabis products to satisfy the demands of such patients;

e. Be permitted to acquire from a registered industrial hemp processor industrial hemp extract, including isolates and distillates, processed in Virginia from Virginia-grown hemp biomass and produced by a registered industrial hemp grower in compliance with state or federal law and to process and

27 formulate such extract with cannabis plant extract into cannabis products. Industrial hemp extract acquired
28 by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to
29 cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance
30 with state law. The industrial hemp processor shall provide such third-party testing results to the
31 pharmaceutical processor before industrial hemp extract may be acquired;

32 f. Submit to the Board of Directors of the Virginia Cannabis Control Authority and, upon approval
33 by the Board of Directors of the Virginia Cannabis Control Authority, comply with a plan describing how
34 the pharmaceutical processor will, in its health service area, (i) educate consumers about responsible
35 consumption of cannabis products and (ii) incubate five or fewer independent cannabis retailers for a
36 period of six months or support and educate persons that are not affiliated with the pharmaceutical
37 processor and wish to participate in the cannabis market; and

38 g. Pay a one-time \$1 million fee to the Department of Taxation prior to engaging in sales pursuant
39 to this act;

40 3. Pharmaceutical processors engaging in sales pursuant to the provisions of this act shall not:

41 a. Except for wholesale purposes, deliver cannabis products or sell cannabis products at any
42 location other than the pharmaceutical processor and cannabis dispensing facilities for which the
43 pharmaceutical processor holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia;

44 b. Intentionally advertise cannabis products to persons younger than 21 years of age;

45 c. Sell to a person in a single transaction more than (i) one ounce of botanical cannabis products,
46 (ii) five grams of cannabis concentrate products, or (iii) a quantity of infused cannabis products that
47 contains more than 500 milligrams of tetrahydrocannabinol;

48 d. Sell any nonbotanical cannabis product with an individual unit dose containing more than 10
49 milligrams of tetrahydrocannabinol;

50 e. Be required to comply with any Board of Pharmacy regulation, requirement, or restriction not
51 referenced in this act or any amendments or additions to the regulations referenced in this act unless such
52 regulation, requirement, restriction, amendment, or addition is adopted by the Board of Pharmacy or is
53 enacted by the General Assembly after January 1, 2022; or

54 f. Be subject to administrative action, liability, or other penalty based on the acts or omissions of
55 any actual or prospective independent cannabis retailer or incubated entity; and

56 4. Persons without a written certification shall be permitted to access pharmaceutical processor
57 and dispensing facilities for the purpose of purchasing cannabis products in accordance with the provisions
58 of this act.

59 § 2. That the Board of Pharmacy may suspend the privileges of a pharmaceutical processor to
60 engage in sales under this act for substantial and repeated violations of the provisions of this act.

61 § 3. That a tax of 21 percent shall be levied on the sale of cannabis products by pharmaceutical
62 processors pursuant to this act, which shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600
63 et seq.) of Title 58.1 of the Code of Virginia or any other federal, state, or local law. Pharmaceutical
64 processors shall remit such tax to the Department of Taxation. The Department of Taxation shall deposit
65 tax revenues from the 21 percent excise tax, as well as the fees received from pharmaceutical processors
66 pursuant to § 1, into the account of the Virginia Cannabis Control Authority to be used to assist
67 independent cannabis retailers located in a census tract that is eligible to be nominated as a rural or urban
68 opportunity zone by the Department of Housing and Community Development pursuant to the federal Tax
69 Cuts and Jobs Act of 2017.

70 § 4. That the Board of Pharmacy and the Department of Taxation may assess and collect fees from
71 each pharmaceutical processor that sells cannabis products pursuant to this act in an amount sufficient to
72 recover the costs associated with the implementation of the provisions of this act.

73 § 5. That the provisions of this act shall not apply to or otherwise affect the sale of cannabis
74 products to patients with written certifications by pharmaceutical processors pursuant to Article 4.2 (§
75 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act.

76 § 6. That no agent or employee of a pharmaceutical processor or cannabis dispensing facility shall
77 be subject to any disciplinary action by a professional licensing board for (i) possessing or manufacturing
78 marijuana for the purposes of producing cannabis products in accordance with the provisions of this act
79 or (ii) possessing, manufacturing, or distributing cannabis products that are consistent with generally
80 accepted cannabis industry standards in accordance with the provisions of this act.

81 § 7. That the Board of Directors of the Virginia Cannabis Control Authority shall promulgate
82 regulations governing sales, cultivation, extraction, processing, manufacturing, wholesaling, and other
83 related activities conducted pursuant to this act that shall model, to the greatest extent practicable, the
84 regulations of the Board of Pharmacy governing pharmaceutical processors set forth in 18VAC110-60 of
85 the Virginia Administrative Code, subject to the exceptions and requirements set forth in § 1 of this act.
86 Upon the effective date of such regulations adopted by the Board of Directors of the Virginia Cannabis
87 Control Authority, (i) oversight of all sales, cultivation, extraction, processing, manufacturing,
88 wholesaling, and other related activities conducted pursuant to this act shall transfer from the Board of
89 Pharmacy to the Board of Directors of the Virginia Cannabis Control Authority and (ii) the Board of
90 Directors of the Virginia Cannabis Control Authority shall be vested with all powers and duties conferred
91 upon the Board of Pharmacy pursuant to this act.

92 § 8. That the provisions of this act shall expire when pharmaceutical processors engaging in the
93 sale of cannabis products pursuant to the provisions of this act are authorized by the Virginia Cannabis
94 Control Authority to apply for and be granted licenses to cultivate, manufacture, wholesale, and sell at
95 retail to consumers 21 years of age or older retail marijuana and retail marijuana products at the
96 pharmaceutical processor and cannabis dispensing facilities for which the pharmaceutical processor holds
97 a permit pursuant to § 54.1-3442.6 of the Code of Virginia.

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