

Stricken language would be deleted from and underlined language would be added to present law.
Act 642 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H1/18/17
A Bill

HOUSE BILL 1051

By: Representative House

By: Senator Standridge

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016; TO ADD A LICENSURE PROCEDURE FOR TRANSPORTERS, DISTRIBUTERS, AND PROCESSERS TO THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016; AND TO ADD A LICENSURE PROCEDURE FOR TRANSPORTERS, DISTRIBUTERS, AND PROCESSERS TO THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016.

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

SECTION 1. Pursuant to § 23 of the Arkansas Medical Marijuana Amendment of 2016, § 8(m) of the Arkansas Medical Marijuana Amendment of 2016, concerning licensure of dispensaries and cultivation facilities, amended to read as follows:

(m)(1) A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver.

(2)(A) A dispensary may receive compensation for providing the goods and services allowed by this section.

(B) A dispensary may contract with a transporter.



distributor, or processor to extent of the license of the transporter, distributor, or processor.

(3)(A) A dispensary may grow or possess:

(i) Fifty (50) mature marijuana plants at any one (1) time plus seedlings; and

(ii) All usable marijuana derived from the plants under subdivision (m)(3)(A)(i) of this section or predecessor plants.

(B) A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

(4)(A)(i) A cultivation facility may cultivate and possess usable marijuana in an amount reasonably necessary to meet the demand for the needs of qualifying patients as determined by the commission with the assistance of the Department of Health.

(ii) However, a cultivation facility shall not sell marijuana in any form except to a dispensary or other cultivation facility.

(B) A cultivation facility may also possess marijuana seeds.

(C) The commission with the assistance of the Department of Health shall promulgate rules determining the amount of marijuana reasonably necessary under subdivision (m)(4)(A) of this section.

(5)(A) A cultivation facility may receive compensation for providing goods and services allowed by this section.

(B) A cultivation facility may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

SECTION 2. Pursuant to § 23 of the Arkansas Medical Marijuana Amendment of 2016, §§ 11 – 13 of the Arkansas Medical Marijuana Amendment of 2016 are amended to read as follows:

§ 11. Immunity for dispensaries and cultivation facilities.

(a) A dispensary, ~~or~~ cultivation facility, transporter, distributor, or processor is not subject to the following:

(1) Prosecution for the acquisition, possession, cultivation, processing, preparation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies in accordance with

the provisions of this amendment and any rule adopted under this amendment;

(2) Inspection, except under § 10 of this amendment or upon a search warrant issued by a court or judicial officer;

(3) Seizure of marijuana, except upon any order issued by a court or judicial officer and with due process of law; or

(4) Imposition of a penalty or denial of a right or privilege, including without limitation imposition of a civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this amendment.

(b)(1) A dispensary agent, ~~or~~ cultivation facility agent, transporter agent, distributor agent, or processor agent shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including without limitation civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a dispensary, ~~or~~ cultivation facility, transporter, distributor, or processor to engage in acts permitted by this amendment.

(2)(A) A dispensary agent, ~~or~~ cultivation facility agent, or processor agent may possess and manufacture marijuana at the dispensary, ~~or~~ cultivation facility, or processor location or locations for which the dispensary agent, ~~or~~ cultivation facility agent, or processor agent is registered or when transferring marijuana under this section.

(B)(i) A dispensary agent who is a volunteer may possess and manufacture marijuana at a dispensary location.

(ii) A dispensary agent who is a volunteer may not dispense or transport marijuana.

(3) A cultivation facility and processor shall label the marijuana that is moved between the cultivation facility or processor and a dispensary, ~~or~~ other cultivation facility, or processor with a trip ticket that identifies the cultivation facility by identification number, the time, date, origin, and destination of the marijuana being transported, and the amount and form of marijuana that is being transported.

(4) A transporter agent or distributor agent may possess marijuana at any location while the transporter agent or distributor agent is transferring marijuana from a dispensary, cultivation facility, or processor to another dispensary, cultivation facility, or processor.

§ 12. Prohibitions for dispensaries.

(a)(1) Except as provided in § 3 of this amendment and subdivision (a)(2) of this section, a dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or designated caregiver.

(2) A dispensary may transfer marijuana to a transporter, distributor, or processor to operate to extent of the license of the transporter, distributor, or processor.

(b)(1) Except as provided in § 3 of this amendment, the Alcoholic Beverage Control Division shall immediately revoke the registry identification card of a dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient or designated caregiver, and that dispensary agent shall be disqualified from serving as a dispensary agent.

(2) A dispensary employing a dispensary agent found to violate subdivision (b)(1) of this section is not subject to penalties, including without limitation the revocation of its license, for the actions of a dispensary agent unless the dispensary knowingly aided or facilitated the violation.

§ 13. Prohibitions for cultivation facilities.

(a) A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary, ~~or~~ other cultivation facility, or processor.

(b) A cultivation facility may employ a transporter or a distributor to transfer marijuana from the cultivation facility to a dispensary, other cultivation facility, or processor.

SECTION 3. Pursuant to § 23 of the Arkansas Medical Marijuana Amendment of 2016, the Arkansas Medical Marijuana Amendment of 2016 is amended to add new sections to read as follows:

§ 24. Licensure for transporters, distributors, and processors.

(a)(1) The Medical Marijuana Commission shall license transporters, distributors, and processors.

(2) The Alcoholic Beverage Control Division shall administer and

enforce the provisions of this section concerning transporters, distributors, and processors.

(b) The owners, board members, or officers of a transporter, distributor, or processor shall not:

(1) Have been convicted of an excluded felony offense;

(2) Have previously been an owner of a dispensary, cultivation facility, transporter, distributor, or processor that has had a license revoked; and

(3) Be under twenty-one (21) years of age.

(c) The commission may conduct a criminal records check in order to carry out this section.

(d)(1) A transporter license, distributor license, and processor license shall expire one (1) year after the date of issuance.

(2) The commission shall issue a renewal license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

(e) The commission may charge a reasonable fee as established by rule for the issuance of an initial license and a renewal license.

(f)(1)(A) A transporter or distributor licensed under this section may:

(i) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and

(ii) Receive compensation for providing services allowed by this section.

(B) A transporter or distributor licensed under this section shall not grow, manufacture, process, prepare, supply, or dispense marijuana.

(2)(A) A processor licensed under this section may:

(i) Acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility; and

(ii) Receive compensation for providing services allowed by this section.

(B) A processor licensed under this section shall not grow or dispense marijuana.

(g) The division may make reasonable inspections on a transporter, distributor, and processor to ensure that the transporter, distributor, and processor:

(1) Is an entity incorporated in the State of Arkansas;

(2) Has implemented appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana;

(3) Conducts an initial comprehensive inventory of all marijuana and a biannual comprehensive inventory of all marijuana; and

(4) Records each transaction between the transporter, distributor, or processor and a dispensary, cultivation facility, or another processor and maintains the records for three (3) years;

(5) Has adopted procedures to ensure accurate recordkeeping.

(h)(1) The commission shall adopt rules governing the applications for a transporter license, distributor license, or processor license.

(2) The division shall adopt rules governing:

(A) Oversight requirements for transporters, distributors, and processors;

(B) Recordkeeping requirements for transporters, distributors, and processors;

(C) Security requirements for transporters, distributors, and processors;

(D) Personnel requirements for transporters, distributors, and processors;

(E) The manufacture, processing, packaging, and dispensing of usable marijuana to qualifying patients and designated caregivers;

(F) Procedures for suspending or terminating the licenses of transporters, distributors, and processors that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(G) Procedures for inspections and investigations of transporters, distributors, and processors;

(H) Advertising restrictions for transporters, distributors, and processors; and

(J) Any other matters necessary to the fair, impartial, stringent, and comprehensive administration of the duties of the division

under this section.

§ 25. Registration and certification of transporter agents, distributor agents, and processor agents.

(a) The Alcoholic Beverage Control Division shall:

(1) License transporter agents, distributor agents, and processor agents; and

(2) Administer and enforce the provisions of this section concerning transporter agents, distributor agents, and processor agents.

(b) The division may conduct criminal records checks in order to carry out this section.

(c) Except as prohibited by subdivision (d)(1) of this section, the division shall issue each transporter agent, distributor agent, and processor agent a registry identification card within ten (10) days of receipt of:

(1) The person's name, address, and date of birth under this amendment; and

(2) A reasonable fee in an amount established by rule for the division.

(d)(1) The division shall not issue a registry identification card to a transporter agent, distributor agent, or processor agent who has been convicted of an excluded felony offense.

(2) The division may conduct a criminal background check of each transporter agent, distributor agent, and processor agent in order to carry out this provision.

(3) The division shall notify the transporter, distributor, or processor in writing of the reason for denying the registry identification card.

(e)(1) A registry identification card for a transporter agent, distributor agent, or processor agent shall expire one (1) year after the date of issuance.

(2) A registry identification card of a transporter agent, distributor agent, or processor agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the transporter, distributor, or processor.

(f) The division may charge a reasonable fee as established by rule for the issuance of a new, renewal, or replacement registry identification

card.

(g)(1) The division may revoke the registry identification card of a transporter agent, distributor agent, or processor agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.

(2) The division may revoke or suspend the transporter license, distributor license, or processor license of a transporter, distributor, or processor that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the cardholder is subject to any other penalties established in law for the violation.

(h) The division shall adopt rules governing:

(1) The manner in which the division considers applications for and renewals of registry identification cards for transporter agents, distributor agents, and processor agents;

(2) The form and content of registration and renewal applications for transporter agents, distributor agents, and processor agents;

(3) Procedures for suspending or terminating the registration of transporter agents, distributor agents, and processor agents who violate the provisions of this section or the rules adopted under this section, procedures for appealing penalties, and a schedule of penalties; and

(4) Any other matters necessary for the fair, impartial, stringent, and comprehensive administration of the duties of the division under this section.

/s/House

APPROVED: 03/24/2017