

Title 20. Public Health and Welfare

Chapter XXI. Alcoholic Beverage Control Division, Department of Finance and Administration

Subchapter A. Generally

Part 811. The Alcoholic Beverage Control Division's Rules Governing the Oversight of Medical Marijuana Transportation by Licensed Transporters and Distributors

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION I. AUTHORITY OF THE BOARD

These Transporter/Distributor Operational Rules are duly adopted and promulgated by Arkansas Alcoholic Beverage Control Division pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016."

Subpart 1. Generally

20 CAR § 811-101. Scope, purpose, and severability.

(a) This part governs the:

- (1) Oversight of medical marijuana transportation and distribution in Arkansas;
- (2) Requirements for record keeping, security, and personnel of transporters and distributors;
- (3) Requirements for transporters and distributors to store and transport medical marijuana;
- (4) Procedures for inspecting and investigating transporters and distributors;
- (5) Procedures for licensing transporter and distributor agents; and

(6) Procedures for suspending, revoking, and penalizing transporter and distributor licenses for violations of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, or rules.

(b)(1) If any provision of this part or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of this part that can be given effect without the invalid provisions or application.

(2) Therefore, all provisions of this part are declared to be severable.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-102. Definitions.

As used in this part:

(1) "Amendment" means the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(2) "Approved laboratory" means a laboratory has been approved by the Department of Health specifically for the testing of usable marijuana;

(3) "Authorized personnel" means any employee employed by a transporter or distributor and granted permission by the facility to enter into restricted areas;

(4) "Commission" means the Medical Marijuana Commission;

(5) "Contractor" means any person or business under contract to complete repairs or improvements to the licensed facility;

(6) "Department" means the Arkansas Department of Health;

(7) "Director" means the Director of the Alcoholic Beverage Control Division;

(8) "Division" means the Alcoholic Beverage Control Division;

(9) "Enforcement" means the Alcoholic Beverage Control Enforcement Division;

(10) "Excluded felony offense" means:

(A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.

(b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.

(ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or

(B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted;

(11) "Inventory tracking system" means the required seed to sale tracking system that tracks medical marijuana from either seed or immature plant state until the usable marijuana is sold to a qualified patient or designated caregiver or is destroyed;

(12) "Licensed facility" means a licensed:

(A) Cultivation facility;

(B) Dispensary;

(C) Transporter/distributor; or

(D) Processor;

(13) "Marijuana" or "medical marijuana" means marijuana in any form described in the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, or the rules promulgated by the:

(A) Alcoholic Beverage Control Division;

(B) Department of Health; or

(C) Medical Marijuana Commission;

(14) "Shipping container" means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities and an approved laboratory;

(15) "Transport" means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory;

(16) "Transporter" or "transporter/distributor" means an entity licensed by the Medical Marijuana Commission pursuant to this part and that may:

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

(B) Receive compensation for providing services allowed by this section;

(17) "Transporter/distributor agent" or "agent" means an individual who has a current registry identification card issued by the Alcoholic Beverage Control Division and who is an employee of a transporter/distributor;

(18) "Transportation vehicle" means a vehicle used by a licensed transporter/distributor to transport marijuana; and

(19) "Unique identification number" or "UIN" means a unique number generated by the inventory tracking system and assigned to all usable marijuana for the purpose of tracking the marijuana from its seed form to ultimate sale to a qualified patient/designated caregiver or destruction.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-103. Recordkeeping requirements — Maintained records.

(a) Records required to be kept for current year and three (3) preceding calendar years:

(1)(A) General business records.

(B) Transporters/distributors shall keep all books and records necessary to fully account for each business transaction conducted under its license;

(2) A copy of the manifest for each transport of marijuana conducted under the transporter's/distributor's license;

(3) Personnel records, as described in this part;

(4) Record of all pesticides and chemical applications to the transporter/distributor facility or transportation vehicle; and

(5) Visitor logs, as described in this part.

(b) **Surveillance records.** All surveillance recordings shall be maintained for a minimum of ninety (90) days.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 2. Personnel Requirements

20 CAR § 811-201. Registry identification card.

Any employee, supervisor, or agent employed by a transporter/distributor must have a current registry identification card issued by the Alcoholic Beverage Control Division pursuant to this part.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-202. Hiring procedure.

(a) A transporter/distributor shall provide a prospective agent a completed Notice of Intent to Hire form for submission to the Alcoholic Beverage Control Division.

(b) The prospective agent may not perform any duties on behalf of the transporter/distributor until the individual's registry identification card has been issued by the division.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-203. Separation of employment.

(a) A transporter/distributor shall notify the Alcoholic Beverage Control Division when any agent ceases to be employed by the transporter/distributor.

(b) Notice of separation of employment shall be on a form provided by the division, and it shall be submitted within seven (7) days of the agent's separation of employment.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-204. Personnel records.

(a) A transporter/distributor shall keep a record of all agents employed by the transporter/distributor, including, but not limited to:

- (1) Name of agent;
- (2) Detailed job description;
- (3) Records of all training received or acquired by the agent;
- (4) Date or dates of employment;
- (5) Record of days worked and time off; and
- (6) Any disciplinary action taken against an agent.

(b) A transporter/distributor shall maintain personnel records for at least three (3) years after an agent ceases to work for the transporter/distributor.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 3. Oversight and Inspection Requirements

20 CAR § 811-301. Inspection and investigation.

(a) Transportation vehicles and transporter/distributor facilities shall be subject to reasonable inspection by the Alcoholic Beverage Control Division.

(b) The Director of the Alcoholic Beverage Control Division, the Director of the Alcoholic Beverage Control Enforcement Division, or an enforcement agent, may:

(1) Inspect, without the need for a search warrant, the licensed premises of a transporter's/distributor's facility or transportation vehicle, including any marijuana and marijuana products on the premises, equipment used in the transportation, distribution or storage of marijuana, the transporter's/distributor's records required by this part and computers, at any time;

(2) Issue a written report or notice of his or her findings;

(3) Exercise law enforcement powers, if authorized; and

(4) Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward the performance of these enforcement duties.

(c) A transporter/distributor and any agent shall cooperate with the Director of the Alcoholic Beverage Control Division, the Director of Alcoholic Beverage Control Enforcement Division, an enforcement agent, an employee of the board, or assisting law enforcement officer, acting in an official capacity to enforce the laws related to marijuana, including but not limited to:

(1) Permitting entry upon and inspection of the licensed premises, including all limited access areas and transportation vehicles; and

(2) Providing access to records required by this part and computers, when requested by:

(A) The Director of the Alcoholic Beverage Control Division;

(B) The Director of the Alcoholic Beverage Control Enforcement Division, or an enforcement agent; or

(C) An assisting law enforcement officer.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-302. Inspection required prior to operation.

(a) All transporters/distributors shall notify the Alcoholic Beverage Control Division of their intent to commence operations.

(b) The Alcoholic Beverage Control Division shall conduct a thorough inspection of the premises for the following, as applicable:

- (1) Verify possession and accuracy of detailed plans and elevation drawings required in this part;
- (2) Verify connection and accessibility to the inventory tracking system;
- (3) Verification of an operational alarm and video surveillance systems;
- (4) Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;
- (5) Verification of controls to limited access areas;
- (6) Verification of compliance with perimeter restrictions;
- (7) Any personnel records as required by this part; and
- (8) Any other records required by this part.

(c) Transporters/distributors may not commence operations until the Alcoholic Beverage Control Division has issued an authorization letter and said letter has been served upon the licensee by the Alcoholic Beverage Control Enforcement Division.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-303. Annual inspections required.

(a) The Alcoholic Beverage Control Division shall conduct or request the Alcoholic Beverage Control Enforcement Division to conduct, at minimum, one (1) inspection every twelve (12) months, of all transportation vehicles and transporter/distributor facilities.

(b) The annual inspection shall include, as applicable:

- (1) Verifying possession and accuracy of detailed plans and elevation drawings required in this part;
- (2) Verify connection and accessibility to the inventory tracking system;
- (3) Verification of an operational alarm and video surveillance systems;
- (4) Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;

- (5) Verification of controls to limited access areas;
- (6) Verification of compliance with perimeter restrictions;
- (7) Any existing personnel records as required by this part; and
- (8) Any existing records required by this part.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 4. Construction Specifications and Security Requirements

20 CAR § 811-401. Duty to operate a secure premises.

(a) A transporter/distributor shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.

(b) A transporter/distributor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana at the transporter/distributor facility.

(c) A transporter/distributor is responsible for the security of all marijuana on the licensed premises, in transportation vehicles, and all marijuana after a transporter/distributor takes possession of the marijuana from a licensed:

- (1) Cultivator;
- (2) Dispensary;
- (3) Processor; or
- (4) Laboratory.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-402. Transport security.

(a) Shipping requirements.

(1) **Shipping container required.** A transporter/distributor shall only transport medical marijuana that is packaged for transport inside a shipping container, as defined in this rule, tagged with a UIN.

(2) **Secured container required.** All marijuana in transport shall be shielded from public view and secured in the following manner:

(A) In a locked, safe, and secure storage compartment that is part of the transportation vehicle; or

(B) In a locked storage container that has a separate key or combination pad.

(3) **Routes and additional security requirements for transporting marijuana.**

(A) A transportation vehicle shall travel directly from the originating licensed facility or approved laboratory to the receiving licensed facility or approved laboratory and shall not make any unnecessary stops in between, except to other licensed facilities or approved laboratories receiving inventory.

(B) A transporter/distributor shall notify the Alcoholic Beverage Control Division immediately if a transportation vehicle is involved in an accident or experiences any type of failure causing the vehicle to be stopped at a location other than a licensed facility or approved laboratory for more than two (2) hours.

(b) Transportation vehicles shall be:

(1) Insured at or above the legal requirements in Arkansas;

(2) Capable of securing marijuana during transport in accordance with this part;

(3) Equipped with an alarm system;

(4) Free of any markings that would indicate the vehicle is being used to transport marijuana; and

(5)(A) Staffed with a minimum of two (2) employees when a vehicle contains medical marijuana.

(B) At least one (1) employee shall remain with the vehicle any time it contains medical marijuana.

(c) Individuals transporting marijuana shall:

(1) Have a valid transporter/distributor agent registry identification card issued by the division;

- (2) Have a valid Arkansas driver's license; and
- (3) Have possession of both the registry identification card and driver's license while operating or riding in a transportation vehicle.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-403. Storage facility requirements.

If a transporter is required to store marijuana at the licensed facility due to an inability to complete delivery within the designated allowable times, the following requirements shall apply:

(1) Storage requirements.

(A) All marijuana shall be stored only on the transporter's licensed premises.

(B) All marijuana shall be stored in one of the following types of secured areas:

(i)(a) A safe or steel cabinet.

(b) Which safe or steel cabinet shall have the following specifications or the equivalent:

(1) Thirty (30) man-minutes against surreptitious entry;

(2) Ten (10) man-minutes against forced entry;

(3) Twenty (20) man-hours against lock manipulation; and

(4) Twenty (20) man-hours against radiological techniques.

(c) Which safe or steel cabinet, if it weighs less than seven hundred fifty pounds (750 lbs.), is bolted or cemented to the floor or wall in such a way that it cannot be readily removed.

(d) Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system as described in this part; or

(ii)(a) A vault.

(b) The walls, floors, and ceilings of which vault are constructed of at least eight inches (8") of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half inch (1/2") steel rods tied six inches (6") on center, or the structural equivalent to such reinforced walls, floors, and ceilings.

(c) The door and frame unit of which vault shall conform to the following specifications or the equivalent:

- (1) Thirty (30) man-minutes against surreptitious entry;
- (2) Ten (10) man-minutes against forced entry;
- (3) Twenty (20) man-hours against lock manipulation; and
- (4) Twenty (20) man-hours against radiological techniques.

(d) Which vault, if operations require it to remain open for frequent access, is equipped with a "day-gate" which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open.

(e) The walls or perimeter of which vault are equipped with an alarm system as described in this part.

(f) The door of which vault is equipped with contact switches.

(g) Which vault has one of the following:

- (1) Complete electrical lacing of the walls, floor, and ceilings;
- (2) Sensitive ultrasonic equipment within the vault;
- (3) A sensitive sound accumulator system; or
- (4) Other such device designed to detect illegal entry.

(2) **Construction of premises.**

(A) **Enclosed and secure facility.** Transporter/distributor facilities shall be enclosed on all sides by permanent walls, except where vehicles may be stored.

(B) On-site storage shall:

- (i) Be secure against unauthorized entry;
- (ii) Have a foundation, slab, or equivalent base to which the floor is securely attached;
- (iii) Provide complete visual screening of stored marijuana; and

(iv)(a) Commercial grade, nonresidential door locks shall be installed on every external door and gate, if applicable.

(b) All external locks shall be equipped with biometric access controls.

(c) Only authorized personnel shall have access to locked and secured areas.

(d)(1) Facilities shall maintain detailed records of authorized personnel with access to locked and secured areas.

(2) Records shall be made available to the Alcoholic Beverage Control Division upon request.

(C)(i) All transporters/distributors shall maintain detailed plans and elevation drawings of the facility.

(ii) The plan shall identify the following:

(a) All entrances and exits to the facility;

(b) All windows, skylights, and retractable mechanisms built into the roof;

(c) All storage areas;

(d) The location of all required security cameras;

(e) The location of all alarm:

(1) Inputs;

(2) Detectors; and

(3) Sirens; and

(f) All video and alarm system surveillance areas.

(iii) All areas shall be labeled according to their purpose.

(D) Perimeter requirements. All transporter/distributor facilities shall maintain the following:

(i) Adequate lighting to facilitate surveillance; and

(ii) Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.

(E)(i) Floor plans and elevation drawings shall be kept current and on the premises of the transporter/distributor facility.

(ii) Plans and elevation drawings shall be made available to the Alcoholic Beverage Control Division or Alcoholic Beverage Control Enforcement Division upon request.

(F) Transporter/distributor facilities shall have adequate lighting in all areas where medical marijuana is stored.

(G) All facilities shall be constructed to meet the standards of applicable state and local electrical, fire, plumbing, and building specification codes.

(3) Alarm system.

(A) A transporter/distributor facility shall be equipped with an alarm system.

(B)(i) Upon attempted unauthorized entry, the alarm system shall transmit a signal directly to a central protection company or a law enforcement agency that has a legal duty to respond.

(ii) A designated agent of the transporter shall also receive notification of any such signal.

(C) Alarm systems shall provide coverage for all points of ingress and egress to the facility, including without limitation:

- (i) Doorways;
- (ii) Windows;
- (iii) Loading bays;
- (iv) Skylights; and
- (v) Retractable roof mechanisms.

(D) Alarm systems shall provide coverage of:

- (i) Any room with an exterior wall;
- (ii) Any room containing a safe; and
- (iii) Any room used to store marijuana.

(E) Alarm systems shall be equipped with a "panic device" that upon activation will both sound any audible alarm components and notify law enforcement.

(F) Alarm systems shall have "duress" and "hold up" features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.

(G) Alarms system must be equipped with failure notification systems to notify the transporter and law enforcement of any failure in the alarm system.

(H) Alarm systems shall have the ability to remain operational during a power outage.

(4) Video surveillance system.

(A) A transporter's/distributor's facility shall be equipped with video surveillance systems consisting of the following:

(i) Digital video cameras;

(ii) Twenty-four (24) hour per day, seven (7) day per week recording capabilities;

(iii) The ability to remain operational during a power outage;

(iv) Digital archiving capabilities;

(v) On-site and off-site monitoring capabilities; and

(vi)(a) All facilities must maintain at least one (1) on-site display monitor connected to the surveillance system at all times.

(b) The monitor shall have a screen size of at least twelve inches (12").

(B) All transporter/distributor facilities shall maintain camera coverage of the following areas:

(i) All points of ingress and egress to the facility, including without limitation:

(a) Doorways;

(b) Windows;

(c) Loading bays;

(d) Skylights; and

(e) Retractable roof mechanisms;

(ii) Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to store marijuana; and

(iii) All parking areas and any alley areas immediately adjacent to the building.

(C) All recording devices shall display a date and time stamp on all recorded video.

(D) All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain on-site a video printer capable of immediately producing a clear still image from any video camera image.

(E)(i) Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel.

(ii) Transporters shall identify employees with access to surveillance system controls and monitoring upon request by the Alcoholic Beverage Control Division.

(F) All surveillance recordings shall be maintained for a minimum of ninety (90) days.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 5. Operational Requirements

20 CAR § 811-501. Hours of operation.

(a) A transporter/distributor may transport medical marijuana to a licensed facility or approved laboratory between the hours of 7:00 a.m. and 9:00 p.m.

(b) If the transporter/distributor has in its possession medical marijuana outside of the approved hours for transportation, the transporter/distributor must immediately return to its facility and store the medical marijuana consistent with this part.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-502. Inventory manifest required.

(a)(1) Prior to the transport of any marijuana, the originating licensee shall provide the transporter/distributor with a copy of the manifest generated from the inventory tracking system.

(2) The manifest shall include the following information:

(A) The following information for the licensed facility originating the transport:

- (i) License number; and
- (ii) Name and contact information for licensee;

(B) The following information for the licensed facility or approved laboratory receiving the medical marijuana:

(i) License number, if the destination is a licensed facility, or business name, if the destination is an approved laboratory;

(ii) Address of the destination; and

(iii) Name and contact information of the licensee or contact information for the approved laboratory;

(C) Quantities by weight or unit of each type of medical marijuana or medical marijuana product contained in transport, along with the UINs for every item;

(D) The date of transport and approximate time of departure;

(E) Arrival date and estimated time of arrival;

(F) Identity of the agents accompanying the transport; and

(G) Delivery vehicle:

- (i) Make;
- (ii) Model; and
- (iii) License plate number.

(b) A separate manifest shall be prepared for each licensed facility or approved laboratory.

(c) An inventory manifest shall not be altered after departing the originating premises.

(d) A transporter/distributor or transporter/distributor agent shall not accept for transport any marijuana that is not accompanied by a manifest and described therein that meets the requirements in this part.

(e) There shall be no passenger or operator in the transporter/distributor vehicle, while medical marijuana is present in the vehicle, who does not maintain with them a registry identification card.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-503. Transporter/distributor restrictions.

A transporter/distributor licensed under this part shall not:

- (1) Grow or prepare marijuana;
- (2) Manufacture or process marijuana;
- (3) Supply or dispense marijuana to a qualified patient or designated caregiver; and
- (4) Purchase marijuana for resale to other licensed facilities.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-504. Limited access to transporter/distributor facility.

Only the following individuals shall be allowed to access transporter's/distributor's facility:

- (1) Individuals in possession of a current registry identification card issued by the Alcoholic Beverage Control Division;
- (2) Individuals authorized by law and this part to be on the premises; and
- (3)(A) Contractors.

(B)(i) If it is necessary for a contractor to enter a transporter/distributor facility to conduct repairs, maintenance, or other specific duties on the property, the contractor shall be escorted to their work site and may be left unattended while completing a job.

(ii) If left unattended, transporter's/distributor's personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.

(C)(i) If it is necessary for a contractor to enter a transporter/distributor facility's limited access area, the contractor shall be escorted to their work site and must remain in the company of a transporter's/distributor's agent while the work is being completed.

(ii)(a) The contractor may be left unattended, in the limited access area, if there is no marijuana being stored in the area while the contractor is present.

(b) If left unattended, transporter's/distributor's agent shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.

(D)(i) All contractors shall be issued a contractor identification tag.

(ii) The tag shall bear the individual's name and be worn by the contractor for the duration of the individual's time on the premises.

(E) If a contractor is required on the premises for more than two (2) consecutive days, the transporter/distributor shall notify the division of the contractor's identity and purpose for being on the premises.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-505. Limited access areas.

(a) Transporter's/distributor's facility shall have limited access to areas where marijuana is stored to authorized personnel.

(b) **Signage.** Limited access areas shall be clearly marked.

(c) **Controlled access.**

(1) Limited access areas shall be locked and accessible only by:

(A) Authorized personnel;

(B) Individuals authorized by law; and

(C) Members of the Alcoholic Beverage Control Division or Alcoholic Beverage Control Enforcement Division.

(2) Transporters/distributors shall keep current rosters of personnel authorized to enter limited access areas.

(3) Contractors may access limited access areas subject to the provisions of 23 CAR § 811-504.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-506. Inventory tracking system.

(a) All transporters/distributors shall utilize the inventory tracking system implemented by the State of Arkansas to medical marijuana stored at the licensed facility.

(b) Transporters/distributors shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the inventory tracking system.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-507. Transporter/distributor tracking requirements.

(a) Transporters/distributors shall ensure the following events are logged into the inventory tracking system:

(1) The storage of medical marijuana at their facility; and

(2) Transport of medical marijuana back to the originating facility for disposal if such medical marijuana has become unusable or has been directed by order of the Alcoholic Beverage Control Division to be returned to the originating licensed facility.

(b)(1) Each transaction described in subsection (a) of this section must be recorded by a licensee immediately upon occurrence.

(2) Any licensee who fails to record a transaction listed in subsection (a) of this section may be subject to disciplinary action.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 6. Investigations

20 CAR § 811-601. Investigations.

(a) The Director of the Alcoholic Beverage Control Division, or the Director of the Alcoholic Beverage Control Enforcement Division, or an enforcement agent, may:

- (1) Without the need for a search warrant, inspect at any time:
 - (A) A transportation vehicle;
 - (B) The licensed premises (including limited access areas) of a transporter/distributor;
 - (C) Any marijuana on the premises or in transportation vehicles;
 - (D) The licensee's records; and
 - (E) The licensee's computers;
- (2) Issue a written report or notice of violation regarding any findings;
- (3) Exercise law enforcement powers, if authorized, and take any other action the Director of the Alcoholic Beverage Control Division or Director of the Alcoholic Beverage Control Enforcement Division determines is necessary; and
- (4) Enlist the assistance of any law enforcement officer not directly employed by the Alcoholic Beverage Control Enforcement Division toward performance of these enforcement duties.

(b) A transporter/distributor and transporter/distributor agent shall cooperate with the Director of the Alcoholic Beverage Control Division, the Director of the Alcoholic Beverage Control Enforcement Division, an enforcement agent, an employee of the Alcoholic Beverage Control Division, or assisting law enforcement officer, acting in an official capacity to enforce the laws contained herein related to marijuana, including without limitation:

- (1) Permitting entry upon, access to, and inspection of the licensed premises, including limited access areas or transportation vehicle; and
- (2) Providing access to the licensee's records and computers.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-602. Closure of business.

The Director of the Alcoholic Beverage Control Division may issue an order providing for the manner and condition under which marijuana may be transferred to another licensed facility under the following circumstances:

- (1) Revocation or suspension of a license;
- (2) Surrender of a license; or
- (3) Expiration of a license.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 7. Advertising

20 CAR § 811-701. Advertising — Directed toward the public.

Transporters/distributors shall not advertise through any public medium or means designed to market its services to the public.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-702. Advertising — Directed toward facilities and laboratories.

Transporters/distributors may market their services directly to licensed facilities and approved labs by any means directed solely to the licensed facilities and approved labs and not to the public.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

Subpart 8. Registration of Transporter/Distributor Agents

20 CAR § 811-801. Registration required.

(a) Every individual employed by or working for or volunteering for a transporter/distributor shall register with the Alcoholic Beverage Control Division and obtain a registry identification card prior to the commencement of any activity on the transporter's/distributor's behalf.

(b) If an individual is employed by multiple licensed facilities, the individual shall obtain a separate registry identification card for each place of employment.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-802. Application.

(a) The following items must be submitted to the Alcoholic Beverage Control Division to apply for a transporter/distributor agent registry identification card:

(1) An application form from the Alcoholic Beverage Control Division to include the following information:

(A) Legal name of applicant;

(B) Date of birth;

(C) Address of applicant;

(D) Current employment information, including intended position with transporter/distributor; and

(E) Criminal history information;

(2) A completed "Notice of Intent to Hire" form from the transporter/distributor specifying the intended job duties of the applicant;

(3) A signed, notarized "Authority to Release Information" form provided by the Alcoholic Beverage Control Division or obtained through a harvester approved by the Division of Arkansas State Police;

(4)(A) An in-state criminal background check through the Division of Arkansas State Police.

(B)(i) The applicant shall also furnish fingerprints to the Division of Arkansas State Police for transmission to the Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.

(ii) Fingerprints may be taken by a harvester approved by the Division of Arkansas State Police;

(5) The following signed forms to be provided by the Alcoholic Beverage Control Division:

(A) "Agency Privacy Requirements for Noncriminal Justice Applicants" form; and

(B) "Noncriminal Justice Applicant's Privacy Rights" form.

(b) An applicant shall not have to submit the information in subdivisions (a)(4) and (a)(5) of this section if the applicant:

- (1) Holds an existing registry identification card for another licensed facility; or
- (2) Has completed the required background checks for the purpose of obtaining a registry identification card in the two (2) years prior to the application, and the applicant has never had a registration card suspended or revoked.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-803. Registry identification card.

(a) An agent of a transporter/distributor shall maintain possession of their transporter/distributor agent registry identification card during any activity within the scope of employment or service of a transporter/distributor.

(b) The registry identification card shall identify the following information:

- (1) Name of the cardholder;
- (2) Date of birth;
- (3) Name of the transporter/distributor;
- (4) Date of issuance;
- (5) Date of expiration; and

(6) Registry identification number assigned by the Alcoholic Beverage Control Division.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-804. Fees.

- (a) Initial registry identification card - \$50.00.
- (b) Renewal of registry identification card - \$50.00.
- (c) Renewal late fee - \$25.00.
- (d) Replacement of registration card - \$25.00.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-805. Issuance.

- (a) The total fee for a registry identification card issued by the Alcoholic Beverage Control Division shall be fifty dollars (\$50.00).
- (b) The total fee shall be collected as follows:
 - (1) One half (1/2) of the fee shall be remitted along with the application; and
 - (2) One half (1/2) of the fee shall be remitted upon notification by the division that the application has been approved.
- (c) The division shall issue the registry identification card within ten (10) days of receipt of the entire fee.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-806. Replacement.

- (a) The Alcoholic Beverage Control Division shall issue a replacement registry identification card to a transporter/distributor agent if the card has not expired.
- (b) In order to receive a replacement registry identification card, a person must present the following to the division:

- (1) A valid government-issued photo identification;
- (2) A completed "Request for Replacement Registry Identification Card" form to be provided by the division; and
- (3) A replacement fee of twenty-five dollars (\$25.00).

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-807. Expiration and renewal.

(a) A registry identification card shall expire one (1) year after the date of issuance unless renewed as described in this part.

(b) A registry identification card shall expire upon notification to the Alcoholic Beverage Control Division by a transporter/distributor that the person is no longer employed by the transporter/distributor.

(c) Agents shall submit a renewal application, on a form to be provided by the division, and the required fee in order to renew their cards.

(d) The division shall renew registry identification cards within ten (10) days of receipt of the items described in subsection (c) of this section.

(e)(1) Renewals received after the date of expiration shall be subject to a renewal late fee of twenty-five dollars (\$25.00), in addition to the renewal fee.

(2) If a card is not renewed within one (1) month of expiration, the card shall be considered expired.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-808. Separation of employment.

A transporter/distributor shall notify the Alcoholic Beverage Control Division of any employment separation of a transporter/distributor agent by filing a Notice of Separation of Employment with the division within seven (7) days following a transportation agent's last day of work for the transporter/distributor.

Authority. Arkansas Constitution, Amendment 98, sec. 24.

20 CAR § 811-809. Persons disqualified.

(a) The Alcoholic Beverage Control Division shall not issue a registry identification card to the following individuals:

- (1) Any person under twenty-one (21) years of age;
- (2) Any person who has been convicted of an excluded felony offense;
- (3) Any person who has had a registry identification card revoked by the division within five (5) years of application; or
- (4) Any person who has not paid the required fees.

(b) The division shall not issue a registry identification card to any person who fails to provide the information required by this part.

(c)(1) If the division denies an application for a registry identification card, the division shall notify the applicant in writing of the reasons for the denial.

(2) The transporter/distributor will be notified of the denial.

(d) The applicant may appeal the denial by requesting a hearing, which shall be held in accordance with the procedures described in this part.

Authority. Arkansas Constitution, Amendment 98, sec. 25.

Subpart 9. Disciplinary Action, Hearings, and Appeals

20 CAR § 811-901. Grounds for suspension or revocation of a registry identification card.

(a) If the Alcoholic Beverage Control Division finds that a transporter/distributor agent has knowingly violated any provision of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, or the rules promulgated by the Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division, the division may:

(1) Suspend or revoke the transporter/distributor agent's transporter/distributor agent registry identification card; and

(2) Penalize the transporter/distributor agent in an amount not to exceed one thousand dollars (\$1,000) per violation.

(b) If the division finds that a transporter/distributor has knowingly aided or facilitated a violation of any provision of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, or the rules promulgated by the commission, department, or division, the division may:

(1) Suspend or revoke the transporter's/distributor's license; and

(2) Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation.

(c) If the division finds that a transporter/distributor has violated any provision of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, or the rules promulgated by the commission, department, or division, the division may:

(1) Suspend or revoke the transporter's/distributor's license; and

(2) Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-902. Grounds for suspension, revocation, or placing a monetary fine against a transporter/distributor or transporter/distributor agent.

Grounds for suspension, revocation, or placing a monetary fine against a transporter/distributor or transporter/distributor agent:

(1) False material statements made by a licensee to the Medical Marijuana Commission during the application process;

(2) Failure to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;

- (3) Failure to prevent diversion or theft of medical marijuana;
- (4) Allowing any individual or agent who has not obtained or had suspended or revoked a registry identification card from the Alcoholic Beverage Control Division to work on a licensed premise or perform any duty on behalf of the transporter/distributor;
- (5) Failure to allow entry to the licensed premises to:
 - (A) The Director of the Alcoholic Beverage Control Division;
 - (B) The Director of the Alcoholic Beverage Control Enforcement Division;
 - (C) Enforcement agents; or
 - (D) Duly authorized police officers in the course and scope of their employment;
- (6) Failure to maintain operational alarm systems and video surveillance systems;
- (7) Failure to maintain or keep any record required by this part or Arkansas law;
- (8) Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- (9) Operation of transporter/distributor when a license has been suspended;
- (10) Failure to comply with any rule promulgated by the:
 - (A) Department of Health;
 - (B) Medical Marijuana Commission; or
 - (C) Alcoholic Beverage Control Division;
- (11) Failure to comply with any law of the State of Arkansas or any local regulation regarding medical marijuana;
- (12) Transporting marijuana in any form to any person or entity without a transporter/distributor license issued by the commission;
- (13) Giving marijuana to any person or entity that is not being lawfully transported consistent with this part;
- (14) Transporting marijuana to or from any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;

- (15) Failure to utilize the inventory tracking system for reporting and controlling inventory;
- (16) Growing or preparing marijuana;
- (17) Manufacturing or processing marijuana;
- (18) Supplying or dispensing marijuana to a qualified patient or designated caregiver;
- (19) Storing marijuana for more than twenty-four (24) hours without written approval from the Alcoholic Beverage Control Division;
- (20) Purchasing marijuana for resale to other licensed facilities;
- (21) Knowingly aiding or facilitating a violation of:
 - (A) The Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;
 - (B) Rules promulgated by the:
 - (i) Medical Marijuana Commission;
 - (ii) Department of Health; or
 - (iii) Alcoholic Beverage Control Division; or
 - (C) Any other law of the State of Arkansas.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-903. Notice of violation.

(a) The Director of the Alcoholic Beverage Control Division may issue a notice of violation if an inspection report or other credible information shows a transporter/distributor or its agent is in violation of:

- (1) The Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;
- (2) Any rule promulgated by the:
 - (A) Alcoholic Beverage Control Division;
 - (B) Medical Marijuana Commission; or

(C) Department of Health;

(3) Any order of the division, the commission, or the department;

(4) Any law relating to marijuana; or

(5) Any law relating to taxation.

(b) A notice of violation regarding a transporter/distributor shall be delivered to the transporter/distributor at its licensed premises.

(c)(1) A notice of violation regarding a transporter/distributor agent shall be delivered to the agent at the transporter's/distributor's licensed premises.

(2) A copy of the notice shall be provided to the transporter/distributor licensee at its licensed premises.

(d) The notice of violation shall describe the alleged violation or violations and cite the applicable:

(1) Constitutional amendment provision;

(2) Statute;

(3) Rule;

(4) Order; or

(5) Other law.

(e) A notice of violation may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a marijuana establishment's license.

(f) The notice of violation may include the Director of the Alcoholic Beverage Control Division's proposed fine, as well as any proposed penalty to be imposed.

(g)(1) A transporter/distributor or transporter/distributor agent that receives a notice of violation shall respond to the notice in writing and may within ten (10) days after receiving the notice, either:

(A) Consent to the proposed penalty set forth in the notice of violation and waive the right to a hearing; or

(B) Request a hearing before the director or an authorized hearing agent.

(2) If the transporter/distributor or transporter/distributor agent consents to the penalty and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.

(3) If a hearing is requested, a hearing shall be scheduled and the transporter or transporter agent shall receive a notice of hearing in compliance with this part.

(h) If the licensee or agent fails to respond to the notice of violation, the director may enter an order in accordance with the notice of violation.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-904. Emergency suspension.

(a) If the Director of the Alcoholic Beverage Control Division finds, pursuant to Arkansas Code § 25-15-211(c), that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in his or her order, summary suspension of a license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

(b) If the director makes the determination set out in subsection (a) of this section, 23 CAR § 811-903 shall not apply.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-905. Notice of hearing.

(a) If a hearing is required by this part, a notice of hearing shall be sent to the respondent transporter/distributor or transporter/distributor agent via regular mail or by service of an enforcement agent to the address on file with the Alcoholic Beverage Control Division.

(b) The notice of hearing shall include a:

- (1) Statement of the time, place, and nature of the hearing;
- (2) Statement of the legal authority and jurisdiction under which the hearing is to be held;

- (3) Short and plain statement of the matters of fact and law asserted; and
- (4) Statement advising the licensee or agent that the license or registry identification card may be suspended or revoked.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-906. Conduct of hearing by director or hearing officer.

(a) The Director of the Alcoholic Beverage Control Division or designated hearing officer shall conduct hearings.

(b) The director or hearing officer shall be authorized to:

- (1) Examine or cause to be examined under oath any person;
- (2) Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;
- (3) Hear testimony, to take proof material for the director's information and for the purposes of the hearing;
- (4) Administer or cause to be administered oaths; and
- (5)(A) Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.

(B) Any circuit court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the director, and the court may compel obedience to its orders by proceedings for contempt.

(C) Any licensee or agent involved in a hearing before the director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-907. Order of director.

(a) If the Director of the Alcoholic Beverage Control Division denies, suspends, or revokes a transporter license or registry identification card, or if the director imposes a monetary fine against any transporter/distributor or transporter/distributor agent, the director shall prepare an order so stating.

(b) The order shall:

(1) Be signed by the director or designated hearing officer;

(2)(A) Include findings of fact and conclusions of law, separately stated.

(B) Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings;

(3) Be mailed by regular and certified mail to a transporter/distributor or transporter/distributor agent to the address provided by the licensee or the agent; and

(4) Be final and binding on all parties until such order has been appealed as provided in this part and the Alcoholic Beverage Control Board issues a decision.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-908. Appeal of director's order.

(a) A transporter/distributor or transporter/distributor agent aggrieved by an order of the Director of the Alcoholic Beverage Control Division may appeal from such order to the Alcoholic Beverage Control Board by filing a notice of appeal with the board.

(b) The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15) days after the order to be appealed from is received by the recipient.

(c) At least ten (10) days before the time set for the hearing, the division shall notify the licensee or agent via regular first-class mail of the time and place where said appeal shall be heard by the board or by a hearing officer designated as provided in this part.

(d)(1) Said hearing shall be held within at least sixty (60) days after the filing of the notice of appeal unless the person appealing requests or consents to a later hearing.

(2) Hearings shall not be continued in excess of six (6) months without consent from the board.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-909. Conduct of hearing by the Alcoholic Beverage Control Board.

In the conduct of any hearing held by the Alcoholic Beverage Control Board or the board's designated hearing officer, the board or such hearing officer shall be authorized to:

- (1) Examine or cause to be examined under oath any person;
- (2) Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;
- (3) Hear testimony;
- (4) Administer or cause to be administered oaths; and
- (5)(A) Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.

(B) Any circuit court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director of the Alcohol Beverage Control Division, and the court may compel obedience to its orders by proceedings for contempt.

(C) Any licensee or agent involved in a hearing before the board shall be entitled, on request, to a subpoena for the compulsory attendance of a witness.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-910. Order by the Alcoholic Beverage Control Board.

(a) Within five (5) days after a hearing is concluded by the Alcoholic Beverage Control Board, the board shall issue its decision in the form of a written order.

(b)(1) The order shall include findings of facts and conclusions of law, separately stated.

(2) Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(c) A copy of the order shall be mailed by certified mail to the transporter/distributor or transporter/distributor agent.

(d) The order shall be final and binding on the transporter/distributor or transporter/distributor agent unless appealed as provided for in this part.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-911. Appeal from the Alcoholic Beverage Control Board to courts.

(a) Any transporter/distributor or transporter/distributor agent aggrieved by an Alcoholic Beverage Control Board order may appeal to circuit court in accordance with Arkansas Code § 25-15-212.

(b) An appeal from the judgment of the circuit court may be taken to the Court of Appeals or the Supreme Court in the manner provided for the appeal of civil matters from the circuit court.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-912. Transcript of board hearings.

(a) Pursuant to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., the Alcoholic Beverage Control Division shall prepare a certified copy of the agency record for filing in any appeal filed under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(b) If the division prevails in the appeal, it will recover one dollar and fifty cents (\$1.50) per page for each page of the transcript of the Alcoholic Beverage Control Board proceedings filed with the circuit court.

(c) If anyone requests that the division provide a copy of the agency transcript, the division shall be entitled to recover forty cents (40¢) per page for each copy of the transcript.

(d) Any copies of the division's files, records, or transcripts shall be paid for at the rates noted above.

(e) All monies received by the division pursuant to the above provisions shall be deposited to the general revenues of the State of Arkansas.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-913. Admissibility of evidence in hearings.

The Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, and any hearing officer shall not be bound by the legal rules of evidence in conducting any hearing and in making any decision, and may take into consideration any testimony, papers, or documents which may be deemed relevant to the issues involved.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-914. Designation of hearing officer.

Pursuant to the power granted to the Alcoholic Beverage Control Division, in part by Arkansas Code § 25-15-213, and pursuant to other powers granted to the Director of the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board, the director or the board may designate any member of the division to conduct any hearing authorized by this part or by any medical marijuana law of the State of Arkansas.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-915. Right to counsel and to cross-examine witnesses.

Any respondent transporter/distributor or transporter/distributor agent or any other person compelled to appear at any hearing provided by this part or by any Arkansas medical marijuana law of the State of Arkansas shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.

20 CAR § 811-916. Surrender.

After a transporter/distributor license or transporter/distributor agent registry identification card has been suspended or revoked by order of the Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, or any final court order, the director shall give notice to any authorized agent of enforcement and said agent shall immediately take possession of the transporter/distributor license or transporter/distributor agent registry identification card and return it to the director.

Authority. Arkansas Constitution, Amendment 98, sec. 24; Arkansas Constitution, Amendment 98, sec. 25.