

House Bill 1 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Peake of the 141st, Gravley of the 67th, Kaiser of the 59th, Ramsey of the 72nd, McCall of the 33rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
2 public health and morals, so as to provide for the possession of low THC oil under certain
3 circumstances; to provide for definitions; to provide for penalties; to amend Title 31 of the
4 Official Code of Georgia Annotated, relating to health, so as to create a registration within
5 the Department of Public Health for patients or their caregivers who are authorized to possess
6 low THC oil; to define certain terms; to provide for registration cards; to provide for
7 procedure; to create the Georgia Commission on Medical Cannabis; to provide for
8 membership; to provide for procedures; to provide for duties and responsibilities; to provide
9 for an automatic repeal; to amend Chapter 1 of Title 51 of the Official Code of Georgia
10 Annotated, relating to general provisions of torts, so as to provide for limited liability for
11 health care institutions and health care providers that permit the possession, administration,
12 or use of low THC oil by a patient or caregiver on their premises in accordance with the laws
13 of this state; to provide for a short title; to provide for related matters; to provide for an
14 effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **PART I**
17 **SECTION 1-1.**

18 This Act shall be known and may be cited as the "Haleigh's Hope Act."

19 **SECTION 1-2.**

20 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
21 public health and morals, is amended by adding a new article to read as follows:

22 **"ARTICLE 8**

H. B. 1 (SUB)

23 16-12-190.

24 As used in this article, the term 'low THC oil' means an oil that contains cannabidiol and
25 not more than 5 percent by weight of tetrahydrocannabinol.

26 16-12-191.

27 (a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
28 person to possess or have under his or her control 20 fluid ounces or less of low THC oil
29 if:

30 (A) Such person is registered with the Department of Public Health as set forth in
31 Code Section 31-2A-18;

32 (B) Such person has in his or her possession a registration card issued by the
33 Department of Public Health; and

34 (C) Such substance is in a pharmaceutical container labeled by the manufacturer
35 indicating the percentage of tetrahydrocannabinol therein.

36 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses
37 or has under his or her control 20 fluid ounces or less of low THC oil without complying
38 with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished
39 as for a misdemeanor.

40 (b) Notwithstanding any provision of Chapter 13 of this title, any person having possession
41 of or under his or her control more than 20 fluid ounces of low THC oil but less than 160
42 fluid ounces of low THC oil or who manufactures, distributes, dispenses, sells, or possesses
43 with the intent to distribute low THC oil shall be guilty of a felony, and upon conviction
44 thereof, shall be punished by imprisonment for not less than one nor more than ten years,
45 a fine not to exceed \$50,000.00, or both.

46 (c) Notwithstanding any provision of Chapter 13 of this title, any person who sells,
47 manufactures, delivers, brings into this state, or has possession of 160 or more fluid ounces
48 of low THC oil shall be guilty of the felony offense of trafficking in low THC oil and, upon
49 conviction, shall be punished as follows:

50 (1) If the quantity of low THC oil is at least 160 fluid ounces but less than 31,000
51 ounces, by imprisonment for not less than five years nor more than ten years and a fine
52 not to exceed \$100,000.00;

53 (2) If the quantity of low THC oil is at least 31,000 fluid ounces but less than 154,000
54 ounces, by imprisonment for not less than seven years nor more than 15 years and a fine
55 not to exceed \$250,000.00; and

56 (3) If the quantity of low THC oil is 154,000 or more fluid ounces, by imprisonment for
57 not less than ten years nor more than 20 years and a fine not to exceed \$1 million."

PART II

SECTION 2-1.

60 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Article
61 2A, relating to the Department of Public Health, by adding a new Code section to read as
62 follows:

63 "31-2A-18.

64 (a) As used in this Code section, the term:

65 (1) 'Board' means the Georgia Composite Medical Board.

66 (2) 'Caregiver' means the parent, guardian, or legal custodian of a patient who is less than
67 18 years of age or the legal guardian of an adult patient.

68 (3) 'Condition' means:

69 (A) Cancer;

70 (B) Amyotrophic lateral sclerosis;

71 (C) Seizure disorders;

72 (D) Multiple sclerosis;

73 (E) Crohn's disease;

74 (F) Mitochondrial disease;

75 (G) Fibromyalgia;

76 (H) Parkinson's disease; or

77 (I) Sickle cell disease.

78 (4) 'Department' means the Department of Public Health.

79 (5) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

80 (6) 'Physician' means an individual licensed to practice medicine pursuant to Article 2
81 of Chapter 34 of Title 43.

82 (7) 'Registry' means the Low THC Oil Patient Registry.

83 (b) There is established within the department the Low THC Oil Patient Registry.

84 (c) The purpose of the registry is to provide a registration of individuals or their caregivers
85 who have been issued registration cards. The department shall establish procedures and
86 promulgate rules and regulations for the establishment and operation of the registration
87 process and dispensing of registry cards to patients and caregivers. Only patients and
88 caregivers residing in this state shall be eligible for registration under this Code section.

89 (d) On and after September 1, 2015, the department shall issue a registration card to
90 individuals or their caregivers when a patient has been certified to the department by his
91 or her physician as being diagnosed with a condition and has been authorized by such
92 physician to use low THC oil as treatment for such condition. The board shall establish
93 procedures and promulgate rules and regulations to assist physicians in providing required

94 uniform information relating to certification and any other matter relating to the issuance
 95 of certifications. In promulgating such rules and regulations, the board shall require that
 96 physicians have a doctor-patient relationship when certifying a patient as needing low THC
 97 oil and physicians shall be required to be treating a patient for the specific condition
 98 requiring such treatment. The board shall require physicians to issue quarterly reports to
 99 the board. Such reports shall require physicians to provide information, including, but not
 100 limited to, dosages recommended for a particular condition; patient clinical responses;
 101 patient compliance; patient response to treatment; patient side effects; and drug
 102 interactions.

103 (e) Information received and records kept by the department for purposes of administering
 104 this Code section shall be confidential; provided, however, that such information shall be
 105 disclosed:

106 (1) Upon written request of a patient or caregiver registered pursuant to this Code
 107 section: and

108 (2) To peace officers for the purpose of:

109 (A) Verifying that an individual in possession of a registration card is registered
 110 pursuant to this Code section; or

111 (B) Determining that an individual in possession of low THC oil is registered pursuant
 112 to this Code section."

113 **PART III**
 114 **SECTION 3-1.**

115 Said title is further amended by adding a new chapter to read as follows:

116 "CHAPTER 50

117 31-50-1.

118 (a) There is created the Georgia Commission on Medical Cannabis.

119 (b) As used in this chapter, the term 'commission' means the Georgia Commission on
 120 Medical Cannabis.

121 31-50-2.

122 (a) The commission shall consist of 16 members. The director of the Governor's Office
 123 for Children and Families, the director of the Georgia Bureau of Investigation, the director
 124 of the Georgia Drugs and Narcotics Agency, the commissioner of agriculture, and the
 125 Governor's executive counsel shall be permanent members of the commission. The

126 permanent members of the commission may designate another individual to serve in his
127 or her stead. The remaining members of the commission shall be appointed by the
128 Governor on or before July 1, 2015. The remaining members shall be:

129 (1) Two members of the Senate;

130 (2) Two members of the House of Representatives;

131 (3) A board certified oncologist;

132 (4) A board certified epitologist;

133 (5) A board certified neurologist;

134 (6) A pharmacist;

135 (7) An attorney employed by the Prosecuting Attorneys' Council of the State of Georgia
136 or a prosecuting attorney;

137 (8) A sheriff; and

138 (9) A police chief.

139 (b) In the event of death, resignation, disqualification, or removal for any reason of any
140 member of the commission, the vacancy shall be filled in the same manner as the original
141 appointment, and the successor shall serve for the unexpired term.

142 (c) Membership on the commission shall not constitute public office, and no member shall
143 be disqualified from holding public office by reason of his or her membership.

144 (d) The Governor shall designate a chairperson of the commission from among the
145 members, which chairperson shall serve in that position at the pleasure of the Governor.
146 The chairperson shall only vote to break a tie. The commission may elect such other
147 officers and committees as it considers appropriate.

148 (e) The commission, with the approval of the Governor, may employ such professional,
149 technical, or clerical personnel as deemed necessary to carry out the purposes of this
150 chapter. The commission may create committees from among its membership as well as
151 appoint other persons to serve in an advisory capacity to the commission in implementing
152 this chapter.

153 (f) The commission shall be attached for administrative purposes only to the Governor's
154 Office for Children and Families in accordance with Code Section 50-4-3. The Governor's
155 Office for Children and Families may use any funds specifically appropriated to it to
156 support the work of the commission.

157 31-50-3.

158 (a) The commission may conduct meetings at such places and times as it deems necessary
159 or convenient to enable it to exercise fully and effectively its powers, perform its duties,
160 and accomplish the objectives and purposes of this chapter. The commission shall hold
161 meetings at the call of the chairperson.

162 (b) A quorum for transacting business shall be a majority of the members of the
163 commission.

164 (c) Any legislative members of the commission shall receive the allowances provided for
165 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
166 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or
167 transportation allowance authorized for state employees. Members of the commission who
168 are state officials, other than legislative members, or state employees shall receive no
169 compensation for their services on the commission, but shall be reimbursed for expenses
170 incurred in the performance of their duties as members of the commission in the same
171 manner as reimbursements are made in their capacity as state officials or state employees.
172 The funds necessary for the reimbursement of the expenses of state officials, other than
173 legislative members, and state employees shall come from funds appropriated to or
174 otherwise available to their respective departments.

175 31-50-4.

176 (a) The commission shall have the following duties:

177 (1) To establish comprehensive recommendations regarding the potential regulation of
178 medical cannabis in this state. Such recommendations shall include, without limitations,
179 specification of the department or departments to have responsibility for the oversight of
180 a state-sanctioned system related to medical cannabis. A detailed report, which shall be
181 submitted no later than December 31, 2015, including a review of the conditions, needs,
182 issues, and problems related to medical cannabis and any recommended action or
183 proposed legislation which the commission deems necessary or appropriate shall be
184 provided to the executive counsel of the Governor, the Office of Planning and Budget,
185 and the chairpersons of the House Committee on Appropriations, the Senate
186 Appropriations Committee, the House Committee on Judiciary, Non-civil, and the Senate
187 Judiciary, Non-civil Committee; and

188 (2) To evaluate and consider the best practices, experiences, and results of legislation in
189 other states with regard to medical cannabis.

190 (b) The commission shall have the following powers:

191 (1) To evaluate how the laws and programs affecting medical cannabis should operate
192 in this state;

193 (2) To request and receive data from and review the records of appropriate state agencies
194 to the greatest extent allowed by state and federal law;

195 (3) To authorize entering into contracts or agreements through the commission's
196 chairperson necessary or incidental to the performance of its duties;

197 (4) To establish rules and procedures for conducting the business of the commission; and

198 (5) To conduct studies, hold public meetings, collect data, or take any other action the
 199 commission deems necessary to fulfill its responsibilities.

200 (c) Subject to the availability of funds, the commission shall be authorized to retain the
 201 services of attorneys, consultants, subject matter experts, economists, budget analysts, data
 202 analysts, statisticians, and other individuals or organizations as determined appropriate by
 203 the commission.

204 31-50-5.

205 This chapter shall stand repealed on June 30, 2016."

206 **PART IV**

207 **SECTION 4-1.**

208 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 209 provisions of torts, is amended by adding a new Code section to read as follows:

210 "51-1-29.6.

211 (a) As used in this Code section, the term:

212 (1) 'Caregiver' shall have the same meaning as set forth in Code Section 31-2A-18.

213 (2) 'Health care institution' shall have the same meaning as set forth in Code Section
 214 51-1-29.5.

215 (3) 'Health care provider' means any person licensed, certified, or registered under
 216 Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43 or Chapter 4 of
 217 Title 26.

218 (4) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

219 (b) A health care institution shall not be subject to any civil liability, penalty, licensing
 220 sanction, or other detrimental action and a health care provider shall not be subject to any
 221 civil liability, penalty, denial of a right or privilege, disciplinary action by a professional
 222 licensing board, or other detrimental action for allowing a patient or caregiver to possess,
 223 administer, or use low THC oil on the premises of a health care institution or offices of a
 224 health care provider provided that the possession of such substance is in accordance with
 225 the laws of this state."

226 **PART V**

227 **SECTION 5-1.**

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

230

SECTION 5-2.

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