

House Bill 722 (COMMITTEE SUBSTITUTE)

By: Representatives Peake of the 141st, Powell of the 32nd, Meadows of the 5th, England of the 116th, Gravley of the 67th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 and Code Section 31-2A-18, relating to crimes and offenses and the
2 establishment of the Low THC Oil Patient Registry, respectively, so as to change provisions
3 relating to the regulation of low THC oil; to revise and provide for definitions; to expand
4 conditions for which low THC oil may be recommended for treatment; to clarify provisions
5 of existing law; to provide for other lawful activities; to change reporting requirements; to
6 amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as
7 to provide for a different criteria for driving under the influence of marijuana; to provide for
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 This Act shall be known and may be cited as "Haleigh's Hope Act - Part II."

12 SECTION 2.

13 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
14 amended by revising Code Section 16-12-190, relating to a definition, as follows:

15 "16-12-190.

16 As used in this article, the term ~~'low THC oil'~~:

17 (1) 'Low THC oil' means an oil that contains an amount of cannabidiol and not more than
18 5 percent by weight of tetrahydrocannabinol ~~and an amount of cannabidiol equal to or~~
19 ~~greater than the amount of tetrahydrocannabinol.~~

20 (2) 'Tetrahydrocannabinol' shall have the same meaning as set forth in Code Section
21 16-13-25."

SECTION 3.

22
23 Said title is further amended in Code Section 16-12-191, relating to possession, manufacture,
24 distribution, or sale of low THC oil, by revising paragraph (1) of subsection (a) and
25 subsection (b) and by revising subsection (e) as follows:

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

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

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

33 ~~(C)(B)~~ Such substance is in a pharmaceutical container labeled by the manufacturer
34 indicating the percentage of tetrahydrocannabinol or tetrahydrocannabinolic acid
35 therein."

36 "(b)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for
37 any person to possess or have under his or her control 20 fluid ounces or less of low THC
38 oil if:

39 (A) Such person is involved in a ~~clinical~~ research program being conducted by the
40 Board of Regents of the University System of Georgia or any authorized clinical trial
41 or research study protocol in this state or is an authorized agent pursuant to Chapter 51
42 of Title 31 as:

43 (i) A ~~program~~ participant;

44 (ii) A parent, guardian, or legal custodian of a ~~program~~ participant;

45 (iii) ~~An~~ A designated employee of the board of regents ~~designated to participate in~~
46 ~~the research program;~~

47 (iv) ~~A program~~ An agent;

48 (v) A ~~program~~ collaborator and their designated employees;

49 (vi) A ~~program~~ supplier and their designated employees;

50 (vii) A ~~program~~ physician;

51 (viii) A ~~program~~ clinical researcher;

52 (ix) ~~Program pharmacy~~ Pharmacy personnel; or

53 (x) Other ~~program~~ medical personnel;

54 (B) Such person has in his or her possession a permit issued as provided in Code
55 Section 31-51-7; and

56 (C) Such substance is in a pharmaceutical container labeled by the manufacturer
57 indicating the percentage of tetrahydrocannabinol or tetrahydrocannabinolic acid
58 therein."

59 ~~"(e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a~~
 60 ~~research program being conducted by the Board of Regents of the University System of~~
 61 ~~Georgia or its authorized agent pursuant to Chapter 51 of Title 31 as an employee of the~~
 62 ~~board of regents designated to participate in such program, a program agent, a program~~
 63 ~~collaborator and their designated employees, a program supplier and their designated~~
 64 ~~employees, a physician, clinical researcher, pharmacy personnel, or other medical~~
 65 ~~personnel identified in subparagraph (b)(1)(A) of this Code section, provided that such~~
 66 ~~person has in his or her possession a permit issued as provided in Code Section 31-5-7~~
 67 ~~31-51-7 and such possession, sale, manufacturing, distribution, or dispensing is solely for~~
 68 ~~the purposes set forth in Chapter 51 of Title 31."~~

69 **SECTION 4.**

70 Said title is further amended by adding a new Code section to read as follows:

71 "16-12-192.

72 Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for a
 73 manufacturer of low THC oil to ship low THC oil to a person registered with the
 74 Department of Public Health under Code Section 31-2A-18."

75 **SECTION 5.**

76 Said title is further amended by revising paragraph (16) of Code Section 16-13-21, relating
 77 to the definitions for the regulation of controlled substances, as follows:

78 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
 79 not, the seeds thereof, the resin extracted from any part of such plant, and every compound,
 80 manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but
 81 shall not include ~~samples~~ tetrahydrocannabinol as described in subparagraph (P) of
 82 paragraph (3) of Code Section 16-13-25 and shall not include the completely defoliated
 83 mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely
 84 sterilized samples of seeds of the plant which are incapable of germination."

85 **SECTION 6.**

86 Said title is further amended by revising subparagraph (P) of paragraph (3) of Code Section
 87 16-13-25, relating to Schedule I controlled substances, as follows:

88 ~~"(P) Tetrahydrocannabinols which shall include, but are not limited to:~~

89 ~~(i) All synthetic or naturally produced samples containing more than 15 percent by~~
 90 ~~weight of tetrahydrocannabinols; and~~

91 ~~(ii) All synthetic or naturally produced tetrahydrocannabinol samples which do~~
 92 Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of

93 tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant
 94 material exhibiting the external morphological features of the plant ~~cannabis~~ of the
 95 genus Cannabis;"

96 **SECTION 7.**

97 Code Section 31-2A-18, relating to the establishment of the Low THC Oil Patient Registry,
 98 definitions, purpose, registration cards, quarterly reports, and waiver forms, is amended by
 99 revising paragraph (3) of subsection (a) and subsections (c) and (e) as follows:

100 "(3) 'Condition' means:

101 (A) Cancer, when such ~~diagnosis is end stage or the treatment~~ disease produces related
 102 wasting illness, recalcitrant nausea, and vomiting;

103 (B) Amyotrophic lateral sclerosis, ~~when such diagnosis is severe or end stage;~~

104 (C) Seizure disorders related to diagnosis of epilepsy or trauma related head injuries;

105 (D) Multiple sclerosis, ~~when such diagnosis is severe or end stage;~~

106 (E) Crohn's disease, ulcerative colitis, or irritable bowel syndrome;

107 (F) Mitochondrial disease;

108 (G) Parkinson's disease, ~~when such diagnosis is severe or end stage; or~~

109 (H) Sickle cell disease, ~~when such diagnosis is severe or end stage;~~

110 (I) Autism spectrum disorder;

111 (J) Epidermolysis bullosa;

112 (K) Human immunodeficiency virus or acquired immune deficiency syndrome;

113 (L) Peripheral neuropathy;

114 (M) Tourette's syndrome;

115 (N) Terminal illness, with a probable life expectancy of less than two years, if the
 116 illness or its treatment produces one or more of the following:

117 (i) Severe pain;

118 (ii) Nausea or severe vomiting; or

119 (iii) Cachexia or severe wasting; or

120 (O) Post-traumatic stress disorder."

121 "(c) The purpose of the registry is to provide a registration of individuals and caregivers
 122 who have been issued registration cards. The department shall establish procedures and
 123 promulgate rules and regulations for the establishment and operation of the registration
 124 process and dispensing of registry cards to individuals and caregivers. ~~Only individuals~~
 125 ~~residing in this state for at least one year or a child born in this state less than one year old~~
 126 ~~shall be eligible for registration under this Code section. Nothing in this Code section shall~~
 127 ~~apply to any Georgia residents living temporarily in another state for the purpose of~~
 128 ~~securing THC oil for treatment of any condition under this Code section."~~

129 "(e) The board shall require physicians to issue ~~quarterly reports~~ an annual report to the
 130 board. Such ~~reports~~ report shall require physicians to provide information, including, but
 131 not limited to, dosages recommended for a particular condition, clinical responses,
 132 compliance, responses to treatment, side effects, and drug interactions."

133 **SECTION 8.**

134 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
 135 by revising subsections (a) and (b) of Code Section 40-5-75, relating to suspension of driver's
 136 licenses by operation of law, as follows:

137 "(a) The driver's license of any person convicted of driving or being in actual physical
 138 control of any moving vehicle while under the influence of a controlled substance ~~or~~
 139 ~~marijuana~~ in violation of paragraph (2), (4), ~~or (6), or (7)~~ of subsection (a) of Code Section
 140 40-6-391 or the law of any other jurisdiction, shall by operation of law be suspended, and
 141 such suspension shall be subject to the following terms and conditions:

142 (1) Upon the first conviction of any such offense, with no arrest and conviction of and
 143 no plea of nolo contendere accepted to such offense within the previous five years, as
 144 measured from the dates of previous arrests for which convictions were obtained to the
 145 date of the current arrest for which a conviction is obtained, the period of suspension shall
 146 be for not less than 180 days. At the end of 180 days, the person may apply to the
 147 department for reinstatement of his or her driver's license. Such license shall be
 148 reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use
 149 Risk Reduction Program and pays to the department a restoration fee of \$210.00 or
 150 \$200.00 when such reinstatement is processed by mail;

151 (2) Upon the second conviction of any such offense within five years, as measured from
 152 the dates of previous arrests for which convictions were obtained to the date of the
 153 current arrest for which a conviction is obtained, the period of suspension shall be for
 154 three years, provided that after one year from the date of the conviction, the person may
 155 apply to the department for reinstatement of his or her driver's license by submitting proof
 156 of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the
 157 department a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed
 158 by mail; and

159 (3) Upon the third or subsequent conviction of any such offense within five years, as
 160 measured from the dates of previous arrests for which convictions were obtained to the
 161 date of the current arrest for which a conviction is obtained, such person's license shall
 162 be suspended for a period of five years. At the end of two years, the person may apply
 163 to the department for a three-year driving permit upon compliance with the following
 164 conditions:

165 (A) Such person has not been convicted or pleaded nolo contendere to any drug related
 166 offense, including driving under the influence, for a period of two years immediately
 167 preceding the application for such permit;

168 (B) Such person submits proof of completion of a licensed drug treatment program.
 169 Such proof shall be submitted within two years of the license suspension and prior to
 170 the issuance of the permit. Such licensed drug treatment program shall be paid for by
 171 the offender. The offender shall pay a permit fee of \$25.00 to the department;

172 (C) Such person submits proof of financial responsibility as provided in Chapter 9 of
 173 this title; and

174 (D) Refusal to issue such permit would cause extreme hardship to the applicant. For
 175 the purposes of this subparagraph, the term 'extreme hardship' means that the applicant
 176 cannot reasonably obtain other transportation, and, therefore, the applicant would be
 177 prohibited from:

178 (i) Going to his or her place of employment or performing the normal duties of his
 179 or her occupation;

180 (ii) Receiving scheduled medical care or obtaining prescription drugs;

181 (iii) Attending a college or school at which he or she is regularly enrolled as a
 182 student; or

183 (iv) Attending regularly scheduled sessions or meetings of support organizations for
 184 persons who have addiction or abuse problems related to alcohol or other drugs,
 185 which organizations are recognized by the commissioner.

186 Any permittee who is convicted of violating any state law or local ordinance relating to
 187 the movement of vehicles or any permittee who is convicted of violating the conditions
 188 endorsed on his or her permit shall have his or her permit revoked by the department.

189 Any court in which such conviction is had shall require the permittee to surrender the
 190 permit to the court, and the court shall forward it to the department within ten days after
 191 the conviction, with a copy of the conviction. Any person whose limited driving permit
 192 has been revoked shall not be eligible to apply for a driver's license until six months from
 193 the date such permit was surrendered to the department. At the end of five years from the
 194 date on which the license was suspended, the person may apply to the department for
 195 reinstatement of his or her driver's license by submitting proof of completion of a DUI
 196 Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration
 197 fee of \$410.00 or \$400.00 when such reinstatement is processed by mail.

198 (b) Except as provided in Code Section 40-5-76, whenever a person is convicted of driving
 199 or being in actual physical control of any moving vehicle while under the influence of a
 200 controlled substance ~~or marijuana~~ in violation of paragraph (2), (4), ~~or (6), or (7)~~ of
 201 subsection (a) of Code Section 40-6-391 or the law of any other jurisdiction, the court in

202 which such conviction is had shall require the surrender to it of any driver's license then
 203 held by the person so convicted, and the court shall thereupon forward such license and a
 204 copy of its order to the department within ten days after the conviction. The periods of
 205 suspension provided for in this Code section shall begin on the date of surrender of the
 206 driver's license or on the date that the department processes the conviction or citation,
 207 whichever shall first occur."

208 **SECTION 9.**

209 Said title is further amended in subsection (a) of Code Section 40-6-391, relating to driving
 210 under the influence of alcohol, drugs, or other intoxicating substances, by deleting "or" at the
 211 end of paragraph (5), by revising paragraph (6), and by adding a new paragraph to read as
 212 follows:

213 "(6) Subject to the provisions of subsection (b) of this Code section, there is any amount
 214 of ~~marijuana~~ or a controlled substance, as defined in Code Section 16-13-21, present in
 215 the person's blood or urine, or both, including the metabolites and derivatives of ~~each~~ or
 216 ~~both~~ a controlled substance without regard to whether or not any alcohol is present in the
 217 person's breath or blood; or

218 (7) The concentration of delta 9-tetrahydrocannabinol is two nanograms per milliliter or
 219 more as shown by analysis of the person's blood, without regard to whether or not any
 220 alcohol is present in the person's breath or blood, at any time within three hours after such
 221 driving or being in actual physical control from delta 9-tetrahydrocannabinol ingested
 222 before such driving or being in actual physical control ended."

223 **SECTION 10.**

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