

House Bill 324

By: Representatives Gravley of the 67th, Newton of the 123rd, Powell of the 32nd, Smyre of the 135th, Clark of the 98th, 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 offenses against public health and morals, so as to provide for the production, manufacturing,
3 and dispensing of low THC oil in this state; to provide for an exception to possession of
4 certain quantities of low THC oil; to provide for definitions; to require a license to produce,
5 grow, manufacture, or dispense low THC oil in this state; to create the Office of Low THC
6 Oil Control within the Department of Public Health; to establish the Low THC Oil License
7 Oversight Board; to provide for Class 1 production licenses; to provide for Class 2
8 production licenses; to provide for safe access retail licenses; to provide for seed-to-sale
9 tracking systems; to provide requirements for safe access retail outlets; to provide for
10 enforcement by the Georgia Bureau of Investigation; to provide for facility inspections and
11 product sample testing; to prohibit certain convicted felons from working as employees for
12 licensees; to provide for confidentiality of records; to provide for transfer of licenses; to
13 provide for revocation of licenses; to prohibit ownership by certain physicians in low THC
14 oil manufacturers or distributors; to provide for violations and penalties; to prohibit
15 regulation by the Department of Agriculture; to amend Chapter 11 of Title 2 of the Official
16 Code of Georgia, relating to seeds and plants generally, so as to provide for an exception; to
17 provide for related matters; to provide for a short title; to provide for legislative findings; to
18 repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 This Act shall be known and may be cited as "Georgia's Hope Act."

22 **SECTION 2.**

23 The General Assembly finds that the establishment of the Low THC Oil Patient Registry in
24 2015 allows Georgia patients to possess low THC oil but provides no way to access low THC
25 oil. The General Assembly finds that thousands of Georgians have serious medical

26 conditions that can be improved by the medically approved use of cannabis and that the law
 27 should not stand between them and treatment necessary for life and health. The General
 28 Assembly finds that the purpose of this Act is to allow the legitimate use of medical cannabis
 29 for health care, including palliative care. The General Assembly finds that this Act does not
 30 in any way diminish this state's strong public policy and laws against illegal drug use, nor
 31 should it be deemed in any manner to advocate, authorize, promote, or legally or socially
 32 accept the use of marijuana for children or adults for any nonmedical use.

33 SECTION 3.

34 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
 35 public health and morals, is amended by revising Code Section 16-12-191, relating to
 36 possession, manufacture, distribution, or sale of low THC oil and penalties, as follows:

37 "16-12-191.

38 (a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
 39 person to possess or have under his or her control 20 fluid ounces or less of low THC oil
 40 if such substance is in a pharmaceutical container labeled by the manufacturer indicating
 41 the percentage of tetrahydrocannabinol therein and:

42 (A) Such person is registered with the Department of Public Health as set forth in Code
 43 Section 31-2A-18 and has in his or her possession a registration card issued by the
 44 Department of Public Health; or

45 (B) Such person has in his or her possession a registration card issued by another state
 46 that allows the same possession of low THC oil as provided by this state's law;
 47 provided, however, that such registration card shall not be lawful authority when such
 48 person has been present in this state for 45 days or more.

49 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses
 50 or has under his or her control 20 fluid ounces or less of low THC oil without complying
 51 with paragraph (1) of this subsection shall be punished as for a misdemeanor.

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

55 (A) Such person is involved in a clinical research program being conducted by the
 56 Board of Regents of the University System of Georgia or any authorized clinical trial
 57 or research study in this state or their authorized agent pursuant to Chapter 51 of Title
 58 31 as:

59 (i) A program participant;

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

- 61 (iii) An employee of the board of regents designated to participate in the research
62 program;
- 63 (iv) A program agent;
- 64 (v) A program collaborator and their designated employees;
- 65 (vi) A program supplier and their designated employees;
- 66 (vii) A program physician;
- 67 (viii) A program clinical researcher;
- 68 (ix) Program pharmacy personnel; or
- 69 (x) Other program medical personnel;
- 70 (B) Such person has in his or her possession a permit issued as provided in Code
71 Section 31-51-7; and
- 72 (C) Such substance is in a pharmaceutical container labeled by the manufacturer
73 indicating the percentage of tetrahydrocannabinol therein.
- 74 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses
75 or has under his or her control 20 fluid ounces or less of low THC oil without complying
76 with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished
77 as for a misdemeanor.
- 78 (c) Notwithstanding any provision of Chapter 13 of this title, any person having possession
79 of or under his or her control more than 20 fluid ounces of low THC oil but less than 160
80 fluid ounces of low THC oil or who manufactures, distributes, dispenses, sells, or possesses
81 with the intent to distribute low THC oil shall be guilty of a felony; and, upon conviction
82 thereof, shall be punished by imprisonment for not less than one year nor more than ten
83 years, a fine not to exceed \$50,000.00, or both.
- 84 (d) Notwithstanding any provision of Chapter 13 of this title, any person who sells,
85 manufactures, delivers, brings into this state, or has possession of 160 or more fluid ounces
86 of low THC oil shall be guilty of the felony offense of trafficking in low THC oil and, upon
87 conviction thereof, shall be punished as follows:
- 88 (1) If the quantity of low THC oil is at least 160 fluid ounces but less than 31,000 fluid
89 ounces, by imprisonment for not less than five years nor more than ten years and a fine
90 not to exceed \$100,000.00;
- 91 (2) If the quantity of low THC oil is at least 31,000 fluid ounces but less than 154,000
92 fluid ounces, by imprisonment for not less than seven years nor more than 15 years and
93 a fine not to exceed \$250,000.00; and
- 94 (3) If the quantity of low THC oil is 154,000 or more fluid ounces, by imprisonment for
95 not less than ten years nor more than 20 years and a fine not to exceed \$1 million.
- 96 (e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a
97 research program being conducted by the Board of Regents of the University System of

98 Georgia or its authorized agent pursuant to Chapter 51 of Title 31 as an employee of the
 99 board of regents designated to participate in such program, a program agent, a program
 100 collaborator and their designated employees, a program supplier and their designated
 101 employees, a physician, clinical researcher, pharmacy personnel, or other medical
 102 personnel, provided that such person has in his or her possession a permit issued as
 103 provided in Code Section 31-51-7 and such possession, sale, manufacturing, distribution,
 104 or dispensing is solely for the purposes set forth in Chapter 51 of Title 31.

105 (f) Subsections (c) and (d) of this Code section shall not apply to a licensee under Article
 106 9 of Chapter 12 of Title 16, provided that such possession, control, sale, manufacturing,
 107 distribution, or dispensing is solely conducted in accordance with the provisions of Article
 108 9 of Chapter 12 of Title 16.

109 ~~(f)~~(g) Nothing in this article shall require an employer to permit or accommodate the use,
 110 consumption, possession, transfer, display, transportation, sale, or growing of marijuana
 111 in any form, or to affect the ability of an employer to have a written zero tolerance policy
 112 prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any employee from
 113 having a detectable amount of marijuana in such employee's system while at work."

114 **SECTION 4.**

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

116 "ARTICLE 9

117 16-12-200.

118 As used in this article, the term:

119 (1) 'Applicant' means an individual or corporate entity applying for a license pursuant
 120 to this article.

121 (2) 'Available capital' means corporate assets that are available to fund business
 122 operations in the event a license is awarded.

123 (3) 'Class 1 production license' means a license to produce, manufacture, and dispense
 124 low THC oil issued pursuant to Code Section 16-12-204.

125 (4) 'Class 2 production license' means a license to produce, manufacture, and dispense
 126 low THC oil issued pursuant to Code Section 16-12-205.

127 (5) 'Department' means the Department of Public Health.

128 (6) 'Dispense' means the sale or provision of low THC oil through a safe access retail
 129 outlet or home delivery.

130 (7) 'Grow' means cultivating and harvesting cannabis or hemp products for use in
 131 producing low THC oil.

132 (8) 'Licensee' means any business, or owner of such business, with a valid license issued
 133 pursuant to this article.

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

135 (10) 'Low THC Oil License Oversight Board' or 'oversight board' means the board
 136 established pursuant to Code Section 16-12-203.

137 (11) 'Manufacture' means to process cannabis or hemp products to produce low THC oil.

138 (12) 'Owner' means any person who directly or indirectly owns, actually or beneficially,
 139 or controls 5 percent or greater of interests of the applicant or any licensee. In the event
 140 that one person owns a beneficial right to interests and another person holds the voting
 141 rights with respect to such interests, then both shall be considered an owner of such
 142 interests.

143 (13) 'Registered patient' means an individual who is legally authorized to possess and use
 144 low THC oil pursuant to Code Section 31-2A-18.

145 (14) 'Safe access retail license' means a license issued pursuant to Code
 146 Section 16-12-206 to operate retail outlets for the sale of low THC oil to registered
 147 patients and also means the authority granted to Class 1 production licensees and Class 2
 148 production licensees to operate retail outlets for the sale of low THC oil to registered
 149 patients.

150 (15) 'Safe access retail outlet' means a retail outlet operated by a licensee for the sale of
 151 low THC oil to registered patients.

152 (16) 'Tracking system' means a seed-to-sale tracking system utilized by Class 1
 153 production licensees and Class 2 production licensees to track marijuana that is grown,
 154 processed, manufactured, transferred, stored, or disposed of and low THC oil that is
 155 transferred, stored, sold, dispensed, or disposed of pursuant to this article.

156 16-12-201.

157 It shall be unlawful for any person in this state to produce, grow, manufacture, or dispense
 158 low THC oil or any products related to its production without a valid license issued by the
 159 Low THC Oil License Oversight Board pursuant to this article.

160 16-12-202.

161 (a) There is created the Office of Low THC Oil Control within the department. The
 162 department, through the office, shall be authorized to:

163 (1) Issue licenses related to the production, growing, manufacturing, and dispensing of
 164 low THC oil in accordance with the provisions of this article;

165 (2) Facilitate and coordinate the operation of the oversight board;

- 166 (3) Coordinate with the Georgia Bureau of Investigation to implement security plans and
 167 enforce the provisions of this article;
- 168 (4) Establish procedures for granting licenses, testing products, and inspecting facilities;
- 169 (5) Establish requirements and procedures to ensure quality control, security, and
 170 oversight of all low THC oil production in this state, including, but not limited to,
 171 conducting testing for purity and dosage levels and verifying that product labels
 172 accurately reflect product content. The department is authorized to contract with private
 173 laboratories to perform the functions described in this paragraph;
- 174 (6) Establish procedures and ensure sufficient resources are available to receive and
 175 resolve complaints from registered patients;
- 176 (7) Establish applications and forms necessary to carry out the provisions of this article;
- 177 (8) Establish criteria for applicants and licensees as necessary to ensure market stability
 178 and adequate supply;
- 179 (9) Provide for the selection, implementation, and oversight of tracking systems;
- 180 (10) Provide oversight of licensee reporting, data collection, and analysis;
- 181 (11) Establish requirements and procedures for marketing and signage; and
- 182 (12) Promulgate rules and regulations and adopt policies and procedures necessary to
 183 carry out the provisions of this article.

184 (b) The department shall not promulgate any rules or regulations that would unduly burden
 185 access to low THC oil by registered patients.

186 16-12-203.

187 (a) There is established the Low THC Oil License Oversight Board for the purpose of
 188 reviewing and approving applications pursuant to a competitive process for licenses issued
 189 under this article.

190 (b) The oversight board shall comprise 11 members as follows:

- 191 (1) The commissioner of public health or his or her designee;
- 192 (2) The director of the Georgia Bureau of Investigation or his or her designee;
- 193 (3) The Attorney General or his or her designee;
- 194 (4) The commissioner of community affairs or his or her designee;
- 195 (5) The chairperson of the Georgia Composite Medical Board or his or her designee;
- 196 (6) Two members appointed by the Governor, one of whom shall be an attorney with
 197 expertise in professional licensing;
- 198 (7) Two members appointed by the President of the Senate, one of whom shall be an
 199 individual with expertise in corporate finance; and
- 200 (8) Two members appointed by the Speaker of the House of Representatives, one of
 201 whom shall be a patient advocate.

202 (c) The oversight board shall elect a chairperson from among its membership. The
203 oversight board shall meet upon the call of the chairperson at such times and places as he
204 or she deems necessary or convenient to perform its duties. The oversight board shall
205 maintain minutes of its meetings and such other records as it deems necessary.

206 (d) Members of the oversight board shall serve without compensation but shall receive for
207 each day of attendance at oversight board meetings a daily expense allowance in the
208 amount specified in subsection (b) of Code Section 45-7-21, plus reimbursement for actual
209 transportation costs incurred while traveling by public carrier or the legal mileage rate for
210 use of a personal car in connection with such attendance.

211 (e) Members of the oversight board shall serve at the pleasure of the Governor, President
212 of the Senate, or Speaker of the House of Representatives, in accordance with their manner
213 of appointment.

214 (f) In addition to the powers provided pursuant to this article, the oversight board shall
215 have the authority to:

216 (1) Have a seal and alter the same at its pleasure; bring and defend actions; make,
217 execute, and deliver contracts, conveyances, and other instruments necessary or
218 convenient to the exercise of its powers; and make and amend bylaws;

219 (2) Adopt such rules and regulations as are necessary to implement the provisions of this
220 article; and

221 (3) Contract for necessary goods and services and employ necessary personnel to assist
222 in carrying out the duties required under this article as it deems advisable.

223 16-12-204.

224 (a) No later than January 1, 2020, the department shall issue five Class 1 production
225 licenses, providing it receives at least five qualified applications. A Class 1 production
226 licensee shall be authorized to:

227 (1) Grow unlimited amounts of cannabis or hemp products only in indoor facilities for
228 use in producing low THC oil;

229 (2) Manufacture low THC oil;

230 (3) Operate up to five safe access retail outlets state wide for the sale of low THC oil to
231 registered patients; and

232 (4) Provide home delivery of low THC oil to registered patients state wide through
233 company owned and operated vehicles.

234 (b) Class 1 production licenses shall be issued to applicants selected by the oversight board
235 following a competitive application and review process in accordance with the
236 requirements set forth in this article. An applicant for a Class 1 production license shall

237 submit an application on a form established by the department, together with the following
238 information:

239 (1) Proof of available capital to make the investments needed to safely, securely, and
240 promptly perform all required functions of a licensee. Prior to issuance of a Class 1
241 production license, the applicant shall provide written documentation showing that on the
242 date of application and award such applicant holds at least \$10 million in available cash
243 reserves to invest in operations in this state;

244 (2) A written production plan detailing the production processes that, at a minimum,
245 includes details describing how the chain of custody will be maintained, documented, and
246 made available for review by the department or the Georgia Bureau of Investigation.
247 Production processes shall include compliance with all production standards, laws, and
248 regulations needed to protect public safety and ensure product purity;

249 (3) A comprehensive security plan that ensures compliance with the applicable laws of
250 this state. At a minimum, a security plan shall include a 24 hours per day, seven days per
251 week interior and exterior video monitoring and intrusion detection monitoring system,
252 recording and video storage capabilities for all facilities, and licensed security personnel.
253 The entire premises of licensees shall be equipped with a centralized access control
254 system capable of generating detailed reports of access logs for a minimum of one year.
255 All videos, access logs, and any other monitoring data shall be available to the Georgia
256 Bureau of Investigation upon request. The department is authorized to set requirements
257 for the minimum technology, resolution, and storage capacity of at least 45 days for the
258 video recording capabilities of licensees;

259 (4) A written plan detailing specific security measures to ensure secured transportation
260 and tracking of delivered products for intrafacility transportation and for home delivery;

261 (5) A detailed employment plan specifying the jobs and salaries of employees and
262 demonstrating the expected economic impact of proposed activities in Georgia;

263 (6) A written plan to ensure that no pesticides are used at any point in the production
264 process other than those certified organic by the Organic Materials Review Institute or
265 another similar standards organization;

266 (7) Detailed designs of all production and retail facilities;

267 (8) Letters of support from one or more local governmental entities where the primary
268 facilities will be located;

269 (9) Documentation of any partnerships the applicant has with Georgia agriculture,
270 military veterans, or minority or disadvantaged business enterprises within Georgia. The
271 oversight board shall consider the length of time the partnership has existed and the
272 strength of the partnership when considering the application and awarding licenses;

- 273 (10) Documentation of the applicant's industry capabilities and management experience.
 274 The oversight board shall consider the relevant industry experience and strength of the
 275 applicant's management team and board of directors when considering its merits;
- 276 (11) Sufficient documentation to prove that a \$5 million cash bond payable to the State
 277 of Georgia or an irrevocable letter of credit can be obtained within 30 days of license
 278 award. Failure to provide the requisite bond or letter of credit within 30 days of the
 279 license award date may be cause for revocation of the license;
- 280 (12) Documentation to satisfactorily demonstrate that the applicant will successfully
 281 open and begin operation of its first retail outlet within 12 months of the award date.
 282 Failure to meet this requirement within 12 months of the award date may be cause for
 283 revocation of the license;
- 284 (13) A written delivery plan with detailed documentation of the applicant's plan to offer
 285 in-home delivery of low THC oil to registered patients;
- 286 (14) Copies of recent criminal background checks performed by the Georgia Crime
 287 Information Center for all owners, officers, and employees of the applicant demonstrating
 288 a lack of felony convictions, except for felony convictions that are greater than ten years
 289 old; and
- 290 (15) A description of any efforts made by the applicant to create jobs or locate facilities
 291 in tier one or tier two counties as defined in Code Section 48-7-40.
- 292 (c) An applicant for a Class 1 production license shall submit a nonrefundable application
 293 fee in the amount of \$50,000.00 concurrent with submission of the application.
- 294 (d) Upon award of a Class 1 production license, an applicant shall be required to submit
 295 an initial license fee of \$100,000.00, and upon annual renewal, a license renewal fee of
 296 \$50,000.00.
- 297 (e) A Class 1 production license may be revoked if the licensee is not operational
 298 within 12 months of the award date.
- 299 (f)(1) No person or entity holding an ownership interest in a license issued under this
 300 Code section may hold an ownership interest in any other type of license issued under
 301 this article.
- 302 (2) No person or entity may hold an ownership interest in more than one Class 1
 303 production license at any one time.
- 304 (3) Ownership interests in more than one license shall be cause for revocation of all
 305 licenses.
- 306 (g) In the event a license issued pursuant to this Code section is revoked by the oversight
 307 board or surrendered by the licensee, the oversight board shall be authorized to issue a
 308 replacement license through a competitive application and review process conducted in
 309 accordance with this Code section.

310 16-12-205.

311 (a) No later than January 1, 2020, the department shall issue five Class 2 production
312 licenses, providing it receives at least five qualified applications. A Class 2 production
313 licensee shall be authorized to:

314 (1) Grow cannabis or hemp products only in indoor facilities for use in producing low
315 THC oil, limited to 20,000 square feet of cultivation space;

316 (2) Manufacture low THC oil;

317 (3) Operate up to three safe access retail outlets for the sale of low THC oil to registered
318 patients; and

319 (4) Provide home delivery of low THC oil to registered patients through company owned
320 and operated vehicles.

321 (b) Class 2 production licenses shall be issued to applicants selected by the oversight board
322 following a competitive application and review process in accordance with the
323 requirements set forth in this article. An applicant for a Class 2 production license shall
324 submit an application on a form established by the department, together with the following
325 information:

326 (1) Proof of available capital to make the investments needed to safely, securely, and
327 promptly perform all required functions of a licensee. Prior to issuance of a Class 2
328 production license, the applicant shall provide written documentation showing that on the
329 date of application and award such applicant holds at least \$1 million in available cash
330 reserves to invest in operations in this state;

331 (2) A written production plan detailing the production processes that, at a minimum,
332 includes details describing how the chain of custody will be maintained, documented, and
333 made available for review by the department or the Georgia Bureau of Investigation.
334 Production processes shall include compliance with all production standards, laws, and
335 regulations needed to protect public safety and ensure product purity;

336 (3) A comprehensive security plan that ensures compliance with the applicable laws of
337 this state. At a minimum, a security plan shall include a 24 hours per day, seven days per
338 week interior and exterior video monitoring and intrusion detection monitoring system,
339 recording and video storage capabilities for all facilities, and licensed security personnel.
340 The entire premises of licensees shall be equipped with a centralized access control
341 system capable of generating detailed reports of access logs for a minimum of one year.
342 All videos, access logs, and any other monitoring data shall be available to the Georgia
343 Bureau of Investigation upon request. The department is authorized to set requirements
344 for the minimum technology, resolution, and storage capacity of at least 45 days for the
345 video recording capabilities of licensees;

- 346 (4) A written plan detailing specific security measures to ensure secured transportation
347 and tracking of delivered products for intrafacility transportation and for home delivery;
348 (5) A detailed employment plan specifying the jobs and salaries of employees and
349 demonstrating the expected economic impact of proposed activities in Georgia;
350 (6) A written plan to ensure that no pesticides are used at any point in the production
351 process other than those certified organic by the Organic Materials Review Institute or
352 another similar standards organization;
353 (7) Detailed designs of all production and retail facilities;
354 (8) Letters of support from one or more local governmental entities where the primary
355 facilities will be located;
356 (9) Documentation of any partnerships the applicant has with Georgia agriculture,
357 military veterans, or minority or disadvantaged business enterprises within Georgia. The
358 oversight board shall consider the length of time the partnership has existed and the
359 strength of the partnership when considering the application and awarding licenses;
360 (10) Documentation of applicant's industry capabilities and management experience.
361 The oversight board shall consider the relevant industry experience and strength of the
362 applicant's management team and board of directors when considering its merits;
363 (11) Documentation to satisfactorily demonstrate that the applicant will successfully
364 open and begin operation of its first retail outlet within 12 months of the award date.
365 Failure to meet this requirement within 12 months of the award date may be cause for
366 revocation of the license;
367 (12) A written delivery plan with detailed documentation of the applicant's plan to offer
368 in-home delivery of low THC oil to registered patients;
369 (13) Copies of recent criminal background checks performed by the Georgia Crime
370 Information Center for all owners, officers, and employees of the applicant demonstrating
371 a lack of felony convictions, except for felony convictions that are greater than ten years
372 old; and
373 (14) A description of any efforts made by the applicant to create jobs or locate facilities
374 in tier one or tier two counties as defined in Code Section 48-7-40.
375 (c) An applicant for a Class 2 production license shall submit a nonrefundable application
376 fee in the amount of \$12,500.00 concurrent with submission of the application.
377 (d) Upon award of a Class 2 production license, an applicant shall be required to submit
378 an initial license fee of \$25,000.00, and upon annual renewal, a license renewal fee of
379 \$12,500.00.
380 (e) A Class 2 production license may be revoked if the licensee is not operational within
381 12 months of the award date.

382 (f)(1) No person or entity holding an ownership interest in a license issued under this
 383 Code section may hold an ownership interest in any other type of license issued under
 384 this article.

385 (2) No person or entity may hold an ownership interest in more than one Class 2
 386 production license at any one time.

387 (3) Ownership interests in more than one license shall be cause for revocation of all
 388 licenses.

389 (g) In the event a license issued pursuant to this Code section is revoked by the oversight
 390 board or surrendered by the licensee, the oversight board shall be authorized to issue a
 391 replacement license through a competitive application and review process conducted in
 392 accordance with this Code section.

393 16-12-206.

394 (a) No later than January 1, 2020, the department shall issue ten safe access retail licenses,
 395 providing it receives at least ten qualified applications. A safe access retail licensee shall
 396 be authorized to operate up to two safe access retail outlets to make low THC oil available
 397 to registered patients on a retail basis.

398 (b) Safe access retail licenses shall be issued to applicants selected by the oversight board
 399 following a competitive application and review process in accordance with the
 400 requirements set forth in this article. An applicant for a safe access retail license shall
 401 submit an application on a form established by the department, together with the following
 402 information:

403 (1) Proof of available capital to make the investments needed to safely, securely, and
 404 promptly perform all required functions of a licensee. Prior to issuance of a safe access
 405 retail license, the applicant shall provide written documentation showing that on the date
 406 of application and award such applicant holds at least \$250,000.00 in available cash
 407 reserves to invest in operations in this state;

408 (2) A comprehensive security plan that ensures compliance with the applicable laws of
 409 this state. At a minimum, a security plan shall include a 24 hours per day, seven days per
 410 week interior and exterior video monitoring and intrusion detection monitoring system,
 411 recording and video storage capabilities for all facilities, and licensed security personnel.
 412 The entire premises of licensees shall be equipped with a centralized access control
 413 system capable of generating detailed reports of access logs for a minimum of one year.
 414 All videos, access logs, and any other monitoring data shall be available to the Georgia
 415 Bureau of Investigation upon request. The department is authorized to set requirements
 416 for the minimum technology, resolution, and storage capacity of at least 45 days for the
 417 video recording capabilities of licensees;

- 418 (3) A detailed employment plan specifying the jobs and salaries of employees and
419 demonstrating the expected economic impact of proposed activities in Georgia;
- 420 (4) Detailed designs of all retail facilities;
- 421 (5) Letters of support from one or more local governmental entities where the primary
422 facilities will be located;
- 423 (6) Documentation of any partnerships the applicant has with Georgia agriculture,
424 military veterans, or minority or disadvantaged business enterprises within Georgia. The
425 oversight board shall consider the length of time the partnership has existed and the
426 strength of the partnership when considering the application and awarding licenses; and
- 427 (7) Copies of recent criminal background checks performed by the Georgia Crime
428 Information Center for all owners, officers, and employees of the applicant demonstrating
429 a lack of felony convictions, except for felony convictions that are greater than ten years
430 old.
- 431 (c) An applicant for a safe access retail license shall submit a nonrefundable application
432 fee in the amount of \$10,000.00 concurrent with submission of the application.
- 433 (d) Upon award of a safe access retail license, an applicant shall be required to submit an
434 initial license fee of \$20,000.00, and upon annual renewal, a license renewal fee
435 of \$10,000.00.
- 436 (e) A safe access retail license may be revoked if the licensee is not operational within 12
437 months of the award date.
- 438 (f)(1) No person or entity holding an ownership interest in a license issued under this
439 Code section may hold an ownership interest in any other type of license issued under
440 this article.
- 441 (2) No person or entity may hold an ownership interest in more than one safe access
442 retail license at any one time.
- 443 (3) Ownership interests in more than one license shall be cause for revocation of all
444 licenses.
- 445 (g) In the event a license issued pursuant to this Code section is revoked by the oversight
446 board or surrendered by the licensee, the oversight board shall be authorized to issue a
447 replacement license through a competitive application and review process conducted in
448 accordance with this Code section.
- 449 16-12-207.
- 450 (a) The department shall require that each Class 1 production licensee and Class 2
451 production licensee establish, maintain, and utilize, directly or by contract, a tracking
452 system. The department shall approve one or more vendors to provide or operate tracking
453 systems no later than December 1, 2019.

- 454 (b) A tracking system shall have the functions and capabilities described in subsections (c)
455 and (d) of this Code section and shall be operated in compliance with the federal Health
456 Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- 457 (c) The tracking system shall be hosted on a platform that allows for:
- 458 (1) Dynamic allocation of resources;
 - 459 (2) Data redundancy; and
 - 460 (3) Recovery from natural disaster within 12 hours.
- 461 (d) The tracking system shall be capable of:
- 462 (1) Tracking all plants, products, packages, and registered patients' purchase totals,
463 waste, transfers, conversions, sales, and returns that, if practicable, are linked to unique
464 identification numbers;
 - 465 (2) Tracking lot and batch information throughout the entire chain of custody;
 - 466 (3) Tracking all marijuana and low THC oil throughout the entire chain of custody;
 - 467 (4) Tracking plant, batch, and marijuana and low THC oil destruction;
 - 468 (5) Tracking transportation of marijuana and low THC oil;
 - 469 (6) Performing complete batch recall tracking that clearly identifies all of the following
470 details relating to the specific batch subject to the recall:
 - 471 (A) Amount of low THC oil sold;
 - 472 (B) Amount of low THC oil inventory that is finished and available for sale;
 - 473 (C) Amount of low THC oil that is in the process of transfer;
 - 474 (D) Amount of low THC oil being processed into another form; and
 - 475 (E) Amount of postharvest raw marijuana, such as marijuana that is in the drying,
476 trimming, or curing process;
 - 477 (7) Reporting and tracking loss, theft, or diversion of marijuana or low THC oil;
 - 478 (8) Reporting and tracking all inventory discrepancies;
 - 479 (9) Reporting and tracking adverse patient responses or dose related efficacy issues;
 - 480 (10) Reporting and tracking all sales and refunds;
 - 481 (11) Tracking purchase limits and flagging purchases in excess of authorized limits;
 - 482 (12) Receiving electronically submitted information required to be reported under this
483 Code section;
 - 484 (13) Receiving testing results electronically from a laboratory via a secured application
485 program interface into the tracking system and directly linking the testing results to each
486 applicable source batch and sample;
 - 487 (14) Flagging test results that have characteristics indicating that they may have been
488 altered;

489 (15) Providing information to cross-check that low THC oil sales are made to a
 490 registered patient, caregiver, or designated caregiver and that the low THC oil received
 491 the required testing;

492 (16) Providing the department with real-time access to information in the tracking
 493 system; and

494 (17) Providing real-time information to the department regarding key performance
 495 indicators, including:

496 (A) Total low THC oil daily sales;

497 (B) Total marijuana plants in production;

498 (C) Total marijuana plants destroyed; and

499 (D) Total inventory adjustments.

500 (e) A Class 1 production licensee or Class 2 production licensee shall supply the relevant
 501 tracking or testing information regarding each plant, product, package, batch, test, transfer,
 502 conversion, sale, recall, or disposition of marijuana or low THC oil in or from such
 503 licensee's possession or control on forms created by the department.

504 16-12-208.

505 (a) No person may enter a safe access retail outlet unless he or she is an employee of the
 506 retail outlet, an employee of a licensee, or a registered patient or caregiver in possession
 507 of a valid registration card in accordance with Code Section 31-2A-18. A registered patient
 508 or caregiver in possession of a valid registration card in accordance with Code
 509 Section 31-2A-18 may obtain low THC oil from any safe access retail outlet in this state
 510 regardless of where he or she resides within this state.

511 (b) Prior to dispensing any low THC oil to a registered patient, a safe access retail outlet
 512 shall:

513 (1) Verify that the individual requesting the low THC oil is a registered patient or
 514 designated caregiver as set forth in Code Section 31-2A-18, using procedures developed
 515 by the department;

516 (2) Assign a tracking number to any low THC oil distributed;

517 (3) Properly package low THC oil in compliance with the federal Poison Prevention
 518 Packing Act regarding child resistant packaging and exemptions for packaging for elderly
 519 patients and shall label low THC oil with a list of all active ingredients and specific
 520 identifying information, including:

521 (A) The patient's name and date of birth;

522 (B) The name and date of birth of a caregiver or designated caregiver, if applicable;

523 (C) The patient's registry identification number from his or her registration card; and

524 (D) The chemical composition of the low THC oil; and

525 (4) Ensure that the low THC oil distributed contains a maximum of a 60 day supply of
 526 the dosage determined for such registered patient.

527 (c) Each safe access retail licensee shall report to the department on a monthly basis the
 528 following information on each registered patient for the prior month:

529 (1) The amount and dosages of the low THC oil distributed;

530 (2) The chemical composition of the low THC oil distributed; and

531 (3) The tracking number assigned to the low THC oil distributed.

532 (d) Each safe access retail licensee shall require its employees to receive ten hours of
 533 annual training, approved by the department, regarding clinical efficacy and safe use of low
 534 THC oil.

535 16-12-209.

536 (a) No licensee shall operate in any location, whether for cultivation, harvesting, and
 537 processing of marijuana or for processing, manufacturing, packaging, or distributing low
 538 THC oil, within 1,000 feet of a public or private school; an early care and education
 539 program as defined in Code Section 20-1A-2; or a church, synagogue, or other place of
 540 public religious worship in existence prior to the date of licensure of such licensee by the
 541 department.

542 (b) No licensee shall use or provide funding for any advertisement for low THC oil which:

543 (1) Contains the word 'marijuana' or any term commonly referring to marijuana used for
 544 recreational purposes;

545 (2) Utilizes signs with green lighting;

546 (3) Contains statements that are inconsistent with any statements on the labeling of
 547 products;

548 (4) Advertises or markets marijuana or marijuana products in a manner intended to
 549 encourage persons under 21 years of age to consume such products;

550 (5) Is attractive to children, including the use of toys or cartoon characters; or

551 (6) Promotes the recreational or nonmedical use of marijuana.

552 16-12-210.

553 Any Class 1 production licensee or Class 2 production licensee may operate one or more
 554 health consultation centers to provide information to registered patients and to arrange for
 555 the purchase of low THC oil from a licensed safe access retail outlet or through home
 556 delivery, so long as such centers have no low THC oil onsite.

557 16-12-211.

558 The Georgia Bureau of Investigation shall be responsible for ensuring that all activities of
559 licensees are conducted in accordance with this article and the laws of this state. In
560 addition to other powers and duties, the Georgia Bureau of Investigation shall establish
561 procedures to ensure that no activities conducted under this article result in the illegal or
562 recreational use of low THC oil or manufacturing by-products and establish any other
563 procedures necessary to carry out its duties and responsibilities pursuant to this article.

564 16-12-212.

565 (a) All licensees shall provide on-demand access to facilities for inspection when requested
566 by the Georgia Bureau of Investigation or the department. Facility inspections may be
567 unannounced and may occur at any time, with or without cause. Upon request by the
568 Georgia Bureau of Investigation or the department, a licensee shall immediately provide
569 product samples for the purposes of laboratory testing.

570 (b) All Class 1 production licensees and Class 2 production licensees shall contract with
571 a laboratory on the department's approved list of independent laboratories, subject to any
572 requirements set by the department, for purposes of testing low THC oil manufactured by
573 such licensees. Low THC oil shall be analyzed for potency, foreign matter, microbial
574 presence, pesticides, heavy metals, and residual solvents. The department shall establish
575 limits for each item tested to verify that such low THC oil meets the requirements of this
576 article. The department shall promulgate rules and regulations governing the operations
577 of laboratories for the testing of low THC oil. The costs of laboratory testing shall be paid
578 by the licensees. Each low THC oil product shall be required to pass all requirements
579 established by the department before being distributed. Products that do not pass the
580 department requirements shall be destroyed by the licensee and proof of such destruction
581 shall be sent to the department upon request.

582 (c) This Code section shall not apply to intrafacility transportation or home delivery of low
583 THC oil; provided, however, that licensees engaging in such transportation or home
584 delivery shall maintain secured transportation and tracking of product delivery.

585 16-12-213.

586 No person convicted of a felony shall be eligible to work as an employee of a licensee or
587 otherwise participate in the business activities of a licensee conducted pursuant to this
588 article; provided, however, that this Code section shall not apply to a felony in which the
589 date of such conviction is greater than ten years old.

590 16-12-214.

591 (a) All working papers, recorded information, documents, and copies produced by,
592 obtained by, or disclosed to the department pursuant to the activities conducted pursuant
593 to this article, other than information published in an official department report regarding
594 the activities conducted pursuant to this article, shall be confidential data and shall not be
595 subject to Article 4 of Chapter 18 of Title 50.

596 (b) In no event shall the department disclose any information that would reveal the identity
597 or health information of any registered patient or violate the federal Health Insurance
598 Portability and Accountability Act of 1996, Public Law 104-191.

599 16-12-215.

600 (a) No license issued under this article shall transfer ownership within one year of
601 issuance.

602 (b) All subsequent transfers of license ownership shall be approved by the department to
603 become valid. The department shall not unreasonably withhold approval of a license
604 transfer when the parties adequately demonstrate that a proposed new owner satisfies all
605 requirements necessary to obtain a license and that the transfer is in the best interest of
606 registered patients in this state.

607 (c) A licensee who has been denied transfer approval by the department may appeal the
608 denial to the commissioner of public health. Thereafter, an appeal may be filed in the
609 Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the 'Georgia
610 Administrative Procedure Act.'

611 16-12-216.

612 (a) A license may be revoked by the department if the licensee:

613 (1) Holds ownership interest in more than one category of license issued under this
614 article;

615 (2) Employs individuals convicted of a felony within the previous ten years;

616 (3) Utilizes pesticides other than pest management products that have been certified
617 organic by the Organic Materials Review Institute or another similar standards
618 organization;

619 (4) Fails to comply with inspection and access requirements in accordance with this
620 article;

621 (5) Fails to be fully operational within 12 months of the date a license is awarded; or

622 (6) Fails to comply with any other provision or requirement of this article.

623 (b) A licensee may appeal a revocation of a license by the department to the commissioner
624 of public health to have such license reinstated. Thereafter, an appeal may be filed in the

625 Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the 'Georgia
626 Administrative Procedure Act.'

627 16-12-217.

628 (a) No current member of the oversight board, or former member of the oversight board
629 for a period of five years from the date such individual ceased to be a member, shall own,
630 operate, have a financial interest in, or be employed by a low THC oil manufacturer or
631 distributor, including any licensee under this article.

632 (b) No physician who certifies individuals to the department pursuant to Code
633 Section 31-2A-18 for the use of low THC oil to treat certain conditions shall own, operate,
634 have a financial interest in, or be employed by a low THC oil manufacturer or distributor,
635 including any licensee under this article. This subsection shall not prohibit a physician
636 from furnishing a registered patient or his or her caregiver, upon request, with the names
637 of low THC oil manufacturers or distributors. Any physician violating this Code section
638 shall be guilty of a misdemeanor.

639 16-12-218.

640 (a) A licensee or licensee's employee who knowingly or willfully encourages, causes,
641 abets, connives, conspires, or aids in the endangerment of patients, trafficking of low THC
642 oil or its manufacturing by-products, or criminal distribution of raw materials and
643 agricultural inputs, including but not limited to seeds, under this article shall be guilty of
644 a felony and, upon conviction thereof, be punished by a fine not to exceed \$100,000.00,
645 imprisonment for not less than five nor more than ten years, or both.

646 (b) Any person whose acts or omissions of gross, willful, or wanton negligence contribute
647 to or cause the endangerment of patients, trafficking of low THC oil or its manufacturing
648 by-products, or criminal distribution of raw materials and agricultural inputs, including but
649 not limited to seeds, under this article shall be guilty of a misdemeanor of a high and
650 aggravated nature and, upon conviction thereof, be punished by a fine of up to \$5,000.00,
651 imprisonment for up to 12 months, or both.

652 (c) Failure to comply with all other provisions of this article shall be punishable by a fine
653 of up to \$500.00 for the first offense. All persons convicted of a second or subsequent
654 offense shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a
655 fine of up to \$1,000.00, imprisonment for up to six months, or both, for each violation.

656 (d) The provisions of this Code section shall not preclude prosecution and punishment for
657 the commission of any offense otherwise provided by law.

658 16-12-219.
659 The Georgia Department of Agriculture shall not regulate any activity authorized under this
660 article. To the extent that the Department of Agriculture is authorized under any other law
661 of this state to regulate any activity authorized by this article, including, but not limited to,
662 the production process and seeds used by growers, such activities shall be exempt from
663 regulation by the Department of Agriculture; provided, however, that all use of artificial
664 pesticides regulated by the Department of Agriculture shall be banned."

665 **SECTION 5.**

666 Chapter 11 of Title 2 of the Official Code of Georgia, relating to seeds and plants generally,
667 is amended by adding a new Code section to read as follows:

668 "2-11-36.

669 This article shall not apply to seeds used for the production of low THC oil in accordance
670 with Article 9 of Chapter 12 of Title 16 and no person shall be subject to regulation or
671 penalties pursuant to this article for growing, selling, offering for sale, exposing for sale,
672 or transporting in this state any seed used for the lawful production of low THC oil
673 pursuant to Article 9 of Chapter 12 of Title 16."

674 **SECTION 6.**

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