House Bill 324 (AS PASSED HOUSE AND SENATE)
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

To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, so as to provide for the production, manufacturing, and dispensing of low THC oil in this state; to provide for an exception to possession of certain quantities of low THC oil; to provide for definitions; to require a license to produce, grow, manufacture, or dispense low THC oil in this state; to provide for the creation of the Georgia Access to Medical Cannabis Commission; to provide for its membership, powers, and duties; to provide for the issuance of designated university licenses and Class 1 and Class 2 production licenses; to authorize the University System of Georgia to obtain cannabis through the National Institute on Drug Abuse or from any available legal source; to provide for the dispensing of low THC oil by pharmacies; to provide for dispensing licenses; to provide for seed-to-sale tracking systems; to provide for retrospective study; to provide for enforcement by the Georgia Bureau of Investigation; to provide for facility inspections and product sample testing; to provide for confidentiality of records; to provide for transfer of certain licenses; to provide for revocation of licenses; to prohibit ownership by certain physicians in low THC oil manufacturers or distributors; to provide for violations and penalties; to provide for immunity; to provide for reimbursement of legal expenses for state employees; to provide for contracts; to prohibit ingesting low THC oil through vaping; to prohibit regulation by the Department of Agriculture; to amend Chapter 11 of Title 2 of the Official Code of Georgia, relating to seeds and plants generally, so as to provide for an exception; to amend Code Section 31-2A-18 of the Official Code of Georgia Annotated, relating to establishment of the Low THC Oil Patient Registry, so as to require a physician to review information in the prescription drug monitoring program database; to provide for research to determine the efficacy of low THC oil for treatment of conditions; to provide for related matters; to provide for a short title; to provide for legislative findings; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

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

SECTION 2.

(a) The General Assembly finds that the establishment of the Low THC Oil Patient Registry in 2015 allows Georgia patients to possess low THC oil but provides no way to access low THC oil. The General Assembly finds that thousands of Georgians have serious medical conditions that can be improved by the medically approved use of cannabis and that the law should not stand between them and treatment necessary for life and health. The General Assembly finds that the purpose of this Act is to allow the legitimate use of medical cannabis for health care, including palliative care. The General Assembly finds that this Act does not in any way diminish this state's strong public policy and laws against illegal drug use, nor should it be deemed in any manner to advocate, authorize, promote, or legally or socially accept the use of marijuana for children or adults for any nonmedical use.

(b) The General Assembly further finds that:

(1) Low THC oil can offer significant medical benefits to patients;

(2) Low THC oil can only be derived from the cannabis plant;

(3) A carefully constructed system of in-state cultivation to benefit only those patients authorized by Georgia law and approved by their physician would benefit patients within the State of Georgia;

(4) The State of Georgia is deeply opposed to any recreational or nonmedical use of marijuana, and any system to help patients access low THC oil should be as limited in scope as possible;

(5) Business opportunities resulting from a system of in-state cultivation should be inclusive of minority, women, and veteran owned businesses;

(6) Businesses resulting from this Act should include at least 20 percent participation by minority, women, and veteran owned businesses as licensees, suppliers, and partners of businesses licensed under this Act; and

(7) The State of Georgia should encourage active participation by minority, women, and veteran owned businesses, as well as take any steps necessary to ensure there is no discrimination in the issuance of licenses or participation in business activities resulting from this Act.

SECTION 3.

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

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

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

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

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

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

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

(i) A program participant;

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

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

(iv) A program agent;

(v) A program collaborator and their designated employees;

(vi) A program supplier and their designated employees;

(vii) A program physician;

(viii) A program clinical researcher;

(ix) Program pharmacy personnel; or

(x) Other program medical personnel;

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

(C) Such substance is in a pharmaceutical container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol therein.
(2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses, purchases, or has under his or her control 20 fluid ounces or less of low THC oil without complying with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished as for a misdemeanor.

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

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

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

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

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

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

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

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

**SECTION 4.**

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

"**ARTICLE 9**

**Part 1**

16-12-200.

As used in this article, the term:

1. 'Applicant' means a corporate entity applying for a license pursuant to this article.
2. 'Available capital' means corporate assets that are available to fund business
   operations in the event a license is awarded pursuant to Part 2 of this article.
3. 'Class 1 production license' means a license to produce and manufacture low THC
   oil issued pursuant to Code Section 16-12-211.
4. 'Class 2 production license' means a license to produce and manufacture low THC
   oil issued pursuant to Code Section 16-12-212.
5. 'Commission' means the Georgia Access to Medical Cannabis Commission created
   pursuant to Code Section 16-12-202.
6. 'Designated universities' means the University of Georgia and Fort Valley State
   University.
7. 'Designated university license' means a license issued by the commission pursuant
   to this article to a designated university to, separately or jointly, produce, manufacture,
   and purchase low THC oil in accordance with this article.
8. 'Dispense' means the sale or provision of low THC oil to registered patients by a
   dispensing licensee.
9. 'Dispensing license' means a specialty license issued by the State Board of Pharmacy
   or the commission pursuant to Code Section 16-12-206 to dispense low THC oil to
   registered patients.
10. 'Grow' means cultivating and harvesting cannabis for use in producing low THC oil.
11. 'Licensee' means any business, or owner of such business, with a valid license
    issued pursuant to this article.
12. 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.
13. 'Manufacture' means to process cannabis to produce low THC oil.
(14) 'Owner' means any person who directly or indirectly owns, actually or beneficially, or controls 5 percent or greater of interests of the applicant or any licensee. In the event that one person owns a beneficial right to interests and another person holds the voting rights with respect to such interests, then both shall be considered an owner of such interests.

(15) 'Product' means low THC oil delivered through an oil, tincture, transdermal patch, lotion, or capsule, except as prohibited by Code Section 16-12-234, but not including any food products infused with low THC oil, including, but not limited to, cookies, candies, or edibles.

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

(17) 'Tracking system' means a seed-to-sale tracking system to track marijuana that is grown, processed, manufactured, transferred, stored, or disposed of and low THC oil that is transferred, stored, sold, dispensed, or disposed of pursuant to this article.

16-12-201.
Except as otherwise provided in this article, it shall be unlawful for any person in this state to produce, grow, manufacture, or dispense low THC oil or any products related to its production in this state.

16-12-202.
(a) There is created the Georgia Access to Medical Cannabis Commission which is assigned to the Secretary of State for administrative purposes only, as prescribed in Code Section 50-4-3. The commission shall consist of seven members who shall be appointed as follows:

(1) Three members appointed by the Governor;
(2) Two members appointed by the Lieutenant Governor; and
(3) Two members appointed by the Speaker of the House of Representatives.
(b) Members shall serve four-year terms of office. The Governor shall designate one of his or her appointees as the chairperson.
(c) The commission shall meet upon the call of the chairperson or upon the request of three members. The commission shall organize itself as it deems appropriate and may elect additional officers from among its members.
(d) Any vacancy on the commission shall be filled for the unexpired term by appointment by the original appointing authority.
(e) Members of the commission shall serve without compensation but shall receive the same expense allowance per day as that received by a member of the General Assembly.
for each day such member of the commission is in attendance at a meeting of such commission, plus either reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such attendance as members of the General Assembly receive. Such expense and travel allowance shall be paid in lieu of any per diem, allowance, or other remuneration now received by any such member for such attendance.

16-12-203.

The commission shall have the following powers, duties, and responsibilities:

(1) To apply for, receive, and administer state funds appropriated to the commission, private grants and donations, and other funds and donations. The commission's annual distributions shall be capped and limited to funds received from the sources specified in this paragraph. The commission shall ensure that its funds are not used as a supplement or secondary payor to any other third-party payor;

(2) To execute a contract or contracts to purchase or obtain low THC oil, cannabis, cannabinoids, or any other derivative, compound, or substantially similar products from any available legal source and to provide logistics related thereto in accordance with this article. Such contract or contracts may be executed with one or more qualified corporations or with one or more governmental entities. Purchases made pursuant to this paragraph shall not be subject to state purchasing laws contained in Article 3 of Chapter 5 of Title 50 or in other provisions of the Official Code of Georgia Annotated;

(3) To utilize funds appropriated to the commission as may be necessary to purchase and transport low THC oil to the State of Georgia for use by registered patients;

(4) To develop, establish, maintain, and administer a low THC oil distribution network to obtain and distribute low THC oil to registered patients in this state and to coordinate the best use of facilities and resources to operate such distribution network;

(5) To establish procedures for inspecting production facilities operated by designated universities;

(6) To establish requirements and procedures to ensure quality control, security, and oversight of low THC oil production in this state, including, but not limited to, testing for purity and dosage levels and verification that product labels accurately reflect product content;

(7) To provide for oversight of tracking systems;

(8) To coordinate and assist in the collection of data to evaluate the provision of low THC oil in this state;

(9) To study the provision of low THC oil in this state to determine the best practices and methods of providing such services, to determine what changes are needed to improve
the provision of low THC oil, and to report any proposed legislative changes to the General Assembly each year;

(10) To coordinate its activities with the Department of Public Health;

(11) To employ an executive director and other staff and to establish duties and responsibilities of such persons; and

(12) To employ and manage consultants, as deemed necessary, in order to fulfill its duties and responsibilities under this article.

16-12-204.

(a) The commission shall issue nontransferable designated university licenses for the production of low THC oil. The licenses granted to designated universities pursuant to this Code section shall be in addition to any licenses issued pursuant to Part 2 of this article. The designated universities shall have the option to be licensed as a production facility, either separately or jointly. The designated universities shall be authorized to contract with private entities to fulfill the terms of the license, including contracting for the production of low THC oil. All contracts shall be approved by the commission.

(b) Each designated university may conduct research on marijuana for therapeutic use if such university is licensed as a production facility pursuant to this Code section. Effective January 1, 2020, and annually thereafter, the designated universities shall submit a report to the Senate Health and Human Services Committee and the House Committee on Health and Human Services, to include data and outcomes of the research conducted pursuant to this paragraph.

(c)(1) The commission shall collect the following information from each licensee:

(A) The amount of low THC oil produced by the licensee during each calendar year;

(B) The details of all production costs, including but not limited to seed, fertilizer, labor, advisory services, construction, and irrigation;

(C) The details of any items or services for which the licensee subcontracted and the costs of each subcontractor directly or indirectly working for the licensee;

(D) The amount of therapeutic chemicals produced resulting from the low THC oil manufactured pursuant to this article;

(E) The amounts paid each year to the licensee related to the licensee's production of low THC oil manufactured pursuant to this article; and

(F) The amount of low THC oil distributed to each dispensing licensee to dispense low THC oil in this state during each calendar year.

(2) The commission shall provide the information collected pursuant to this subsection for the previous calendar year in the form of a written report to the Senate Health and Human Services Committee and the House Committee on Health and Human Services.
no later than February 1 of each year. The commission shall also make a copy of such
report available to the public by posting such report on the commission's website.
(d) The commission may revoke the license of a designated university if it is found by the
commission to have violated any of the requirements established pursuant to this article.

16-12-205.

(a) The University System of Georgia shall:
   (1) Apply to contract with the National Institute on Drug Abuse for receipt of cannabis
       pursuant to regulations promulgated by the National Institute on Drug Abuse, the United
       States Food and Drug Administration, and the United States Drug Enforcement
       Administration; or
   (2) Obtain cannabis, cannabinoids, or any other derivative, compound, or substantially
       similar products from any available legal source.
(b) A designated university may obtain cannabis, cannabinoids, or any other derivative,
    compound, or substantially similar products from the University System of Georgia.
(c) Upon receipt of any cannabis, cannabinoids, or its extracts, compounds, or derivatives,
    or any other substantially similar product, regardless of its source, including any product
    produced pursuant to Code Section 16-12-204, a designated university shall test the
    specifications of such product.

16-12-206.

(a)(1) The State Board of Pharmacy shall develop an annual, nontransferable specialty
    dispensing license for a pharmacy to dispense low THC oil to registered patients. The
    State Board of Pharmacy shall develop rules and regulations regarding dispensing
    pharmacies in this state.
   (2) The commission shall be authorized to develop an annual, nontransferable dispensing
       license for retail outlets to dispense low THC oil to registered patients. The commission
       shall develop rules and regulations regarding retail dispensing licensees in this state. The
       commission shall ensure that retail outlets are dispersed throughout the state for access
       by registered patients.
(b) The State Board of Pharmacy and the commission shall jointly adopt rules relating to
    the dispensing of low THC oil by pharmacies and retail dispensing licensees. Such rules
    shall include but not be limited to:
   (1) Standards, procedures, and protocols for the effective use of low THC oil as
       authorized by state law and related rules and regulations:
(2) Standards, procedures, and protocols for the dispensing of low THC oil by a pharmacy with a dispensing license and by retail dispensing licensees and for the utilization of a tracking system;

(3) Procedures and protocols to provide that no low THC oil may be sold to or transferred to a location outside of this state;

(4) The establishment of standards, procedures, and protocols for determining the amount of usable low THC oil that is necessary to constitute an adequate supply for registered patients in this state to ensure uninterrupted availability for a period of one month, including amounts for topical treatments;

(5) The establishment of standards, procedures, and protocols to ensure that all low THC oil dispensed is consistently pharmaceutical grade;

(6) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of dispensing licenses;

(7) The establishment of other licensing, renewal, and operational standards which are deemed necessary by the State Board of Pharmacy and the commission;

(8) The establishment of standards and procedures for testing low THC oil for levels of tetrahydrocannabinol or other testing parameters deemed appropriate by the State Board of Pharmacy and the commission;

(9) The establishment of health, safety, and security requirements for pharmacies and other retail outlets dispensing low THC oil; and

(10) Requirements for the issuance of dispensing licenses to pharmacies and other retail outlets.

16-12-207.

The General Assembly shall establish a Medical Cannabis Commission Oversight Committee with two members appointed by the Lieutenant Governor and two members appointed by the Speaker of the House of Representatives. Any member of the Medical Cannabis Commission Oversight Committee shall be permitted to inspect any production facility upon request and after reasonable notice is provided to the production facility.

Part 2

16-12-210.

(a) The commission shall have the following powers, duties, and responsibilities to implement the provisions of this part:

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

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(2) Coordinate with the Georgia Bureau of Investigation to implement security plans and enforce the provisions of this part;

(3) Establish procedures for granting licenses, testing products, and inspecting facilities;

(4) Establish requirements and procedures to ensure quality control, security, and oversight of all low THC oil production in this state, including, but not limited to, conducting testing for purity and dosage levels and verifying that product labels accurately reflect product content. The commission is authorized to contract with private laboratories to perform the functions described in this paragraph;

(5) Establish procedures and ensure sufficient resources are available to receive and resolve complaints from registered patients;

(6) Establish applications and forms necessary to carry out the provisions of this part;

(7) Establish criteria for applicants and licensees as necessary to ensure market stability and adequate supply;

(8) Provide for the selection, implementation, and oversight of tracking systems;

(9) Provide oversight of licensee reporting, data collection, and analysis;

(10) Establish requirements and procedures for marketing and signage; and

(11) Promulgate rules and regulations and adopt policies and procedures necessary to carry out the provisions of this part.

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

(c) All fees collected by the commission shall be remitted to the general fund of the state treasury.

16-12-211.

(a) The commission may issue up to two Class 1 production licenses. A Class 1 production licensee shall be authorized to:

(1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited to 100,000 square feet of cultivation space; and

(2) Manufacture low THC oil.

(b) Class 1 production licenses shall be issued to applicants selected by the commission following a competitive application and review process in accordance with the requirements set forth in this part. An applicant must be a Georgia corporation or entity and shall maintain a bank account with a bank located in this state. An applicant for a Class 1 production license shall submit an application on a form established by the commission, together with the following information:

(1) Proof of available capital to make the investments needed to safely, securely, and promptly perform all required functions of a licensee. Prior to issuance of a Class 1
production license, the applicant shall provide written documentation showing that on the
date of application and award such applicant holds at least $2 million in available cash
reserves to invest in operations in this state;
(2) A written production plan detailing the production processes that, at a minimum,
includes details describing how the chain of custody will be maintained, documented, and
made available for review by the commission or the Georgia Bureau of Investigation.
Production processes shall include compliance with all production standards, laws, and
regulations needed to protect public safety and ensure product purity;
(3) A comprehensive security plan that ensures compliance with the applicable laws of
this state. At a minimum, a security plan shall include a 24 hours per day, seven days per
week interior and exterior video monitoring and intrusion detection monitoring system,
recording and video storage capabilities for all facilities, and licensed security personnel.
The entire premises of licensees shall be equipped with a centralized access control
system capable of generating detailed reports of access logs for a minimum of one year.
All videos, access logs, and any other monitoring data shall be available to the Georgia
Bureau of Investigation upon request. The commission is authorized to set requirements
for the minimum technology, resolution, and storage capacity of at least 45 days for the
video recording capabilities of licensees;
(4) A written plan detailing specific security measures to ensure secured transportation
and tracking of delivered products for intrafacility transportation;
(5) A detailed employment plan specifying the jobs and salaries of employees and
demonstrating the expected economic impact of proposed activities in Georgia;
(6) A written plan to ensure that no pesticides are used at any point in the production
process other than those certified organic by the Organic Materials Review Institute or
another similar standards organization;
(7) Detailed designs of all production facilities;
(8) Letters of support from one or more local governmental entities where the primary
facilities will be located;
(9) A demonstration of significant involvement in the business by one or more minority
business enterprises as defined in Code Section 50-5-131, either as co-owners of the
business or as significant suppliers of goods and services for the business. Such
applicants shall be encouraged to form business relationships with Georgia agricultural
businesses and military veterans;
(10) Documentation of the applicant's industry capabilities and management experience.
The commission shall consider the relevant industry experience and strength of the
applicant's management team and board of directors when considering its merits;
(11) Sufficient documentation to prove that a $1.5 million cash bond payable to the State of Georgia or an irrevocable letter of credit can be obtained within 30 days of license award. Failure to provide the requisite bond or letter of credit within 30 days of the license award date shall be cause for revocation of the license;

(12) At least one set of classifiable electronically recorded fingerprints submitted to the commission in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The commission shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the commission shall review the record for all owners, officers, and employees of the applicant demonstrating a lack of convictions, except for felony convictions that are greater than ten years old, are not drug related, or have been expunged or pardoned; and

(13) A description of any efforts made by the applicant to create jobs or locate facilities in tier one or tier two counties as defined in Code Section 48-7-40.

(c) An applicant for a Class 1 production license shall submit a nonrefundable application fee in the amount of $25,000.00 concurrent with submission of the application.

(d) Upon award of a Class 1 production license, an applicant shall be required to submit an initial license fee of $200,000.00, and upon annual renewal, a license renewal fee of $100,000.00.

(e) A Class 1 production license shall be revoked if the licensee is not operational within 12 months of the award date.

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

(2) No person or entity or director or officer of such entity may hold an ownership interest in more than one Class 1 production license at any one time.

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

(g) In the event a license issued pursuant to this Code section is revoked by the commission or surrendered by the licensee, the commission shall be authorized to issue a replacement license through a competitive application and review process conducted in accordance with this Code section.
The commission may issue up to four Class 2 production licenses. A Class 2 production licensee shall be authorized to:

1. Grow cannabis only in indoor facilities for use in producing low THC oil, limited to 50,000 square feet of cultivation space; and
2. Manufacture low THC oil.

Class 2 production licenses shall be issued to applicants selected by the commission following a competitive application and review process in accordance with the requirements set forth in this part. An applicant must be a Georgia corporation or entity and shall maintain a bank account with a bank located in this state. An applicant for a Class 2 production license shall submit an application on a form established by the commission, together with the following information:

1. Proof of available capital to make the investments needed to safely, securely, and promptly perform all required functions of a licensee. Prior to issuance of a Class 2 production license, the applicant shall provide written documentation showing that on the date of application and award such applicant holds at least $1.25 million in available cash reserves to invest in operations in this state;
2. A written production plan detailing the production processes that, at a minimum, includes details describing how the chain of custody will be maintained, documented, and made available for review by the commission or the Georgia Bureau of Investigation. Production processes shall include compliance with all production standards, laws, and regulations needed to protect public safety and ensure product purity;
3. A comprehensive security plan that ensures compliance with the applicable laws of this state. At a minimum, a security plan shall include a 24 hours per day, seven days per week interior and exterior video monitoring and intrusion detection monitoring system, recording and video storage capabilities for all facilities, and licensed security personnel. The entire premises of licensees shall be equipped with a centralized access control system capable of generating detailed reports of access logs for a minimum of one year. All videos, access logs, and any other monitoring data shall be available to the Georgia Bureau of Investigation upon request. The commission is authorized to set requirements for the minimum technology, resolution, and storage capacity of at least 45 days for the video recording capabilities of licensees;
4. A written plan detailing specific security measures to ensure secured transportation and tracking of delivered products for intrafacility transportation;
5. A detailed employment plan specifying the jobs and salaries of employees and demonstrating the expected economic impact of proposed activities in Georgia;
(6) A written plan to ensure that no pesticides are used at any point in the production process other than those certified organic by the Organic Materials Review Institute or another similar standards organization;

(7) Detailed designs of all production facilities;

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

(9) A demonstration of significant involvement in the business by one or more minority business enterprises as defined in Code Section 50-5-131, either as co-owners of the business or as significant suppliers of goods and services for the business. Such applicants shall be encouraged to form business relationships with Georgia agricultural businesses and military veterans;

(10) Documentation of the applicant's industry capabilities and management experience. The commission shall consider the relevant industry experience and strength of the applicant's management team and board of directors when considering its merits;

(11) Sufficient documentation to prove that a $625,000.00 cash bond payable to the State of Georgia or an irrevocable letter of credit can be obtained within 30 days of license award. Failure to provide the requisite bond or letter of credit within 30 days of the license award date shall be cause for revocation of the license;

(12) At least one set of classifiable electronically recorded fingerprints submitted to the commission in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The commission shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the commission shall review the record for all owners, officers, and employees of the applicant demonstrating a lack of convictions, except for felony convictions that are greater than ten years old, are not drug related, or have been expunged or pardoned; and

(13) A description of any efforts made by the applicant to create jobs or locate facilities in tier one or tier two counties as defined in Code Section 48-7-40.

(c) An applicant for a Class 2 production license shall submit a nonrefundable application fee in the amount of $5,000.00 concurrent with submission of the application.

(d) Upon award of a Class 2 production license, an applicant shall be required to submit an initial license fee of $100,000.00, and upon annual renewal, a license renewal fee of $50,000.00.
(e) A Class 2 production license shall be revoked if the licensee is not operational within 12 months of the award date.

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

(2) No person or entity or director or officer of such entity may hold an ownership interest in more than one Class 2 production license at any one time.

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

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

16-12-213.

(a) The commission shall require that each Class 1 production licensee and Class 2 production licensee establish, maintain, and utilize, directly or by contract, a tracking system. The commission shall approve one or more vendors to provide or operate tracking systems.

(b) A tracking system shall have the functions and capabilities described in subsections (c) and (d) of this Code section and shall be operated in compliance with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(c) The tracking system shall be hosted on a platform that allows for:

(1) Dynamic allocation of resources;

(2) Data redundancy; and

(3) Recovery from natural disaster within 12 hours.

(d) The tracking system shall be capable of:

(1) Tracking all plants, products, packages, and registered patients' purchase totals, waste, transfers, conversions, sales, and returns that, if practicable, are linked to unique identification numbers;

(2) Tracking lot and batch information throughout the entire chain of custody;

(3) Tracking all marijuana and low THC oil throughout the entire chain of custody;

(4) Tracking plant, batch, and marijuana and low THC oil destruction;

(5) Tracking transportation of marijuana and low THC oil;

(6) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(A) Amount of low THC oil sold;
(B) Amount of low THC oil inventory that is finished and available for sale;
(C) Amount of low THC oil that is in the process of transfer;
(D) Amount of low THC oil being processed into another form; and
(E) Amount of postharvest raw marijuana, such as marijuana that is in the drying,
trimming, or curing process;

(7) Reporting and tracking loss, theft, or diversion of marijuana or low THC oil;
(8) Reporting and tracking all inventory discrepancies;
(9) Reporting and tracking adverse patient responses or dose related efficacy issues;
(10) Reporting and tracking all sales and refunds;
(11) Tracking purchase limits and flagging purchases in excess of authorized limits;
(12) Receiving electronically submitted information required to be reported under this
Code section;
(13) Receiving testing results electronically from a laboratory via a secured application
program interface into the tracking system and directly linking the testing results to each
applicable source batch and sample;
(14) Flagging test results that have characteristics indicating that they may have been
altered;
(15) Providing information to cross-check that low THC oil sales are made to a
registered patient, caregiver, or designated caregiver and that the low THC oil received
the required testing;
(16) Providing the commission with real-time access to information in the tracking
system; and
(17) Providing real-time information to the commission regarding key performance
indicators, including:
   (A) Total low THC oil daily sales;
   (B) Total marijuana plants in production;
   (C) Total marijuana plants destroyed; and
   (D) Total inventory adjustments.

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

16-12-214.

(a) Beginning January 1, 2022, the commission shall undertake a retrospective study of the
participation of minority and women owned businesses as licensees under this part for the
period from January 1, 2020, through December 31, 2021. Thereafter, the commission shall conduct such study every four years for the immediately preceding four-year period.

(b) The initial and subsequent studies conducted pursuant to subsection (a) of this Code section shall identify any proof of discrimination based on race or gender in the issuance of licenses under this part.

(c) In the event that any proof of discrimination based on race or gender in the issuance of licenses under this part is identified, the commission shall be authorized to address such proof of discrimination by:

(1) Issuing one additional Class 1 production license and two additional Class 2 production licenses to minority and women owned businesses;

(2) Reissuing any licenses that have been surrendered or revoked to minority or women owned businesses; or

(3) A combination of the above.

(d) This Code section shall not require the commission to issue a license to any applicant unless such applicant otherwise meets all requirements for licensure under this part.

16-12-215.

(a) No licensee shall operate in any location, whether for cultivation, harvesting, and processing of marijuana or for processing, manufacturing, packaging, or distributing low THC oil, within a 3,000 foot radius of a covered entity, measured from property boundary to property boundary. No dispensing licensee may operate in any location within a 1,000 foot radius of a covered entity, measured from property boundary to property boundary. As used in this subsection, the term 'covered entity' means a public or private school; an early care and education program as defined in Code Section 20-1A-2; or a church, synagogue, or other place of public religious worship, in existence prior to the date of licensure of such licensee by the commission or State Board of Pharmacy.

(b) No licensee shall advertise or market low THC oil to registered patients or the public; provided, however, that a licensee shall be authorized to provide information regarding its low THC oil directly to physicians.

16-12-216.

The Georgia Bureau of Investigation shall be responsible for ensuring that all activities of licensees are conducted in accordance with this part and the laws of this state. In addition to other powers and duties, the Georgia Bureau of Investigation shall establish procedures to ensure that no activities conducted under this part result in the illegal or recreational use of low THC oil or manufacturing by-products and establish any other procedures necessary to carry out its duties and responsibilities pursuant to this part.
(a) All licensees shall provide on-demand access to facilities for inspection when requested by the Georgia Bureau of Investigation, the commission, or the local law enforcement agency for the jurisdiction in which the facility is located. The commission and the Georgia Drugs and Narcotics Agency may each conduct one annual inspection. Upon request by the Georgia Bureau of Investigation, the commission, the Georgia Drugs and Narcotics Agency, or the local law enforcement agency for the jurisdiction in which the facility is located, a licensee shall immediately provide product samples for the purposes of laboratory testing.

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

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

A licensee shall not be eligible for any tax credit allowed pursuant to any of the following Code Sections: 48-7-29.8, 48-7-29.11, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.5, 48-7-40.7, 48-7-40.9, 48-7-40.12, 48-7-40.17, 48-7-40.18, 48-7-40.20, 48-7-40.21, 48-7-40.22, 48-7-40.24, 48-7-40.25, 48-7-40.26, 48-7-40.26A, 48-7-40.27, 48-7-40.28, 48-7-40.29, 48-7-40.30, 48-7-40.31, 48-7-40.32, 48-7-40.33, or 48-7-40.35.

(a) No individual convicted of a drug related felony shall be eligible to work as an employee of a licensee or otherwise participate in the business activities of a licensee.
conducted pursuant to this part unless the conviction has been expunged or the individual has been pardoned or had his or her civil rights restored.

(b) No individual convicted of a nondrug related felony shall be eligible to work as an employee of a licensee or otherwise participate in the business activities of a licensee conducted pursuant to this part unless:

(1) The conviction has been expunged or the individual has been pardoned or had his or her civil rights restored; or

(2)(A) The date of conviction is greater than ten years old; and

(B) The individual:

(i) Has been released from incarceration for at least five years; or

(ii) Agrees to submit to weekly drug screenings.

16-12-220.

(a) All working papers, recorded information, documents, and copies produced by, obtained by, or disclosed to the commission pursuant to the activities conducted pursuant to this part, other than information published in an official commission report regarding the activities conducted pursuant to this article, shall be confidential data and shall not be subject to Article 4 of Chapter 18 of Title 50; provided, however, that any contract, memorandum of understanding, or cooperative endeavor agreement entered into by the commission pursuant to this article shall be subject to Article 4 of Chapter 18 of Title 50.

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

16-12-221.

(a) The commission shall grant licenses under this part pursuant to contracts awarded through competitive sealed bids or competitive sealed proposals as provided for in Article 3 of Chapter 5 of Title 50.

(b) Any contract for a license awarded pursuant to this subsection shall not be for less than five years and may contain provisions for automatic renewal.

(c) No licensee shall subcontract for services for the cultivation or processing in any way of marijuana if the subcontractor, or any of the service providers in the chain of subcontractors, is owned wholly or in excess of 5 percent by any state employee or member of a state employee's immediate family, including but not limited to any legislator, state-wide public official, or employee of a designated university. For purposes of this subsection, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.
(d) No licensee shall give or receive anything of value in connection with any contract, memorandum of understanding, or cooperative endeavor agreement executed pursuant to this part except the value that is expressed in the contract, memorandum of understanding, or cooperative endeavor agreement.

16-12-222.

(a) No license issued under this part shall transfer ownership within five years of issuance.

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

(c) A licensee who has been denied transfer approval by the commission may file an appeal in the Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(d) A license issued pursuant to this article:

(1) Is effective for a single business entity;

(2) Vests no property or right in the holder of the license except to conduct the licensed business during the period the license is in effect;

(3) Is nontransferable, nonassignable by and between owners or location owners and location operators, and not subject to execution; and

(4) Expires upon the death of an individual holder of a license or upon the dissolution of any other holder of a license.

(e) Upon the sale of a licensee's business in its entirety, the buyer shall pay to the commission, subject to approval, a transfer fee for the license that accompanies the business in the following amounts:

(1) For the first sale of a:

(A) Class 1 production license business, a transfer fee for the license in the amount of $100,000.00; and

(B) Class 2 production license business, a transfer fee for the license in the amount of $12,500.00;

(2) For the second sale of a:

(A) Class 1 production license business, a transfer fee for the license in the amount of $150,000.00; and

(B) Class 2 production license business, a transfer fee for the license in the amount of $62,500.00;

(3) For the third sale of a:
(A) Class 1 production license business, a transfer fee for the license in the amount of $200,000.00; and

(B) Class 2 production license business, a transfer fee for the license in the amount of $112,500.00; and

(4) For the fourth or subsequent sale of a:

(A) Class 1 production license business, a transfer fee for the license in an amount to be established by the commission, which shall be not less than $200,000.00; and

(B) Class 2 production license business, a transfer fee for the license in an amount to be established by the commission, which shall be not less than $112,500.00.

16-12-223.

(a) A license shall be revoked by the commission if the licensee:

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

(2) Knowingly employs individuals convicted of a felony within the previous ten years unless the conviction has been expunged or the individual has been pardoned or had his or her civil rights restored;

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

(4) Fails to comply with inspection and access requirements in accordance with this part;

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

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

(b) A licensee whose license has been revoked by the commission may file an appeal in the Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

16-12-224.

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

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

(c) A licensee that makes a campaign contribution pursuant to Article 2 of Chapter 5 of Title 21 shall identify itself as a licensee under this part to the recipient of such campaign contribution.

16-12-225.

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

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

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

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

16-12-226.

The sale of low THC oil products authorized by this article shall be subject to all applicable sales and use taxes.

Part 3

16-12-230.

(a) Low THC oil shall only be dispensed to registered patients in this state by a dispensing licensee or directly from the commission pursuant to this article.

(b) A pharmacist who dispenses low THC oil shall seek and review information on a registered patient from the prescription drug monitoring program data base established
pursuant to Code Section 16-13-57 prior to dispensing low THC oil to the registered patient.

16-12-231.

The following persons and entities, when acting in accordance with the provisions of this article, shall not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use, prescription, administration, manufacture, or distribution of low THC oil:

(1) A registered patient who is in possession of an amount of low THC oil authorized under Code Section 16-12-191 or such patient's caregiver, parent, or guardian;
(2) A physician who certifies a patient to the Department of Public Health as being diagnosed with a condition or in a hospice program and authorized to use low THC oil for treatment pursuant to Code Section 31-2A-18;
(3) A pharmacist or pharmacy that dispenses or provides low THC oil to a registered patient;
(4) The commission or its employees or contractors associated with the production of low THC oil in accordance with this article; and
(5) A designated university, an employee of a designated university, or any other person associated with the production of low THC oil in accordance with this article.

16-12-232.

A state employee is eligible for reimbursement for incurred counsel fees under Code Section 45-12-26 in the event of a federal criminal investigation or prosecution solely related to the employee's good faith discharge of public responsibilities under this article.

16-12-233.

It is the intent of the General Assembly that contracts related to the cultivation, harvesting, manufacturing, production, and distribution of cannabis solely for the manufacture of low THC oil pursuant to this article are not deemed contracts against public policy pursuant to Code Section 13-8-2 and shall be enforceable. No such contract shall be unenforceable on the basis that activities related to cannabis are prohibited by federal law.

16-12-234.

It shall be unlawful to ingest low THC oil in a manner that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor in a solution or other form.
including but not limited to any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of low THC oil in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

16-12-235.

(a) Notwithstanding anything to the contrary within this article, nothing herein shall be construed to prohibit the conduct of research involving low THC oil or cannabis that is conducted in full accordance with federal regulations, including the regulations of the United States Food and Drug Administration and United States Drug Enforcement Administration by any university or nonprofit institution of higher education within the State of Georgia, provided that:

(1) The university researchers conducting the research have the appropriate federal and state permits to acquire and use low THC oil or cannabis in clinical or preclinical research; and

(2) The substances used for such research are obtained from licensed pharmaceutical companies or through channels established by the United States government, such as the National Institute on Drug Abuse.

(b) Nothing in this article shall be construed to prohibit research otherwise permitted by Chapter 51 of Title 31.

16-12-236.

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

SECTION 5.

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

"2-11-36.

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

SECTION 6.

Code Section 31-2A-18 of the Official Code of Georgia Annotated, relating to establishment of the Low THC Oil Patient Registry, is amended by revising subsections (d), (e), and (h) as follows:

"(d) The department shall issue a registration card to individuals who have been certified to the department by his or her physician as being diagnosed with a condition or is an inpatient or outpatient in a hospice program and have been authorized by such physician to use low THC oil as treatment. The department shall issue a registration card to a caregiver when the circumstances warrant the issuance of such card. The board shall establish procedures and promulgate rules and regulations to assist physicians in providing required uniform information relating to certification and any other matter relating to the issuance of certifications. In promulgating such rules and regulations, the board shall require that physicians have a doctor-patient relationship when certifying an individual as needing low THC oil and physicians shall be required to be treating such individual for the specific condition requiring such treatment or be treating such individual in a hospice program. A physician shall seek and review information about a patient from the prescription drug monitoring program data base established pursuant to Code Section 16-13-57 prior to certifying such patient to the department as being diagnosed with a specific condition that requires the use of low THC oil as treatment.

(e) The board shall require physicians to issue semiannual reports to the board. Such reports shall require physicians to provide information, including, but not limited to, dosages recommended for a particular condition, patient clinical responses, levels of tetrahydrocannabinol or tetrahydrocannabinolic acid present in test results, compliance, responses to treatment, side effects, and drug interactions. Such reports shall be used for research purposes to determine the efficacy of the use of low THC oil as a treatment for conditions."

"(h) The board, in coordination with the Department of Public Health, shall annually review the conditions included in paragraph (3) of subsection (a) of this Code section and recommend additional conditions that have been shown through medical research to be effectively treated with low THC oil. Such recommendations shall include recommended dosages for a particular condition, patient responses to treatment with respect to the particular condition, and drug interactions with other drugs commonly taken by patients with the particular condition. Such recommendations shall be made jointly by the board..."
and the Department of Public Health to the General Assembly no later than December 1
of each year."

SECTION 7.

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