

WITHDRAWN

The House Committee on Judiciary Non-Civil offers the following substitute to HB 196:

A BILL TO BE ENTITLED**AN ACT**

1 To amend Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to access to medical cannabis, so as to provide that the Georgia Access to Medical
3 Cannabis Commission shall be subject to the Administrative Procedure Act, laws governing
4 open meetings and open records, and state purchasing laws; to provide for information to be
5 provided to the Medical Cannabis Commission Oversight Committee unless exempt from
6 public disclosure under open records laws; to authorize the location of retail outlets for the
7 dispensing of low THC oil and products to registered patients at Class 1 and Class 2
8 production facilities; to authorize the dispensing of low THC oil and products from any
9 Class 1 or Class 2 production licensee by any dispensing licensee; to provide for additional
10 Class 1 and Class 2 production licenses; to provide for criteria; to provide for appeals to the
11 Georgia State-wide Business Court; to require each commissioner to file an annual financial
12 disclosure statement; to amend Code Section 31-2A-18 of the Official Code of Georgia
13 Annotated, relating to the Low THC Oil Patient Registry, so as to add conditions for which
14 low THC oil may be used for treatment; to provide for related matters; to provide for an
15 effective date; to repeal conflicting laws; and for other purposes.

H. B. 196 (SUB)

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
19 access to medical cannabis, is amended by revising Code Section 16-12-202, relating to the
20 creation of Georgia Access to Medical Cannabis Commission, terms, designation, meetings,
21 vacancy, and compensation, by adding a new subsection to read as follows:

22 "(f) The commission shall be subject to the provisions of Article 3 of Chapter 5,
23 Chapter 13, Chapter 14, and Article 4 of Chapter 18 of Title 50."

24 **SECTION 2.**

25 Said article is further amended by revising paragraphs (2) and (17) of Code
26 Section 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to
27 Medical Cannabis Commission, as follows:

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

36 "(17) To levy fines for failure by a Class 1 production licensee, Class 2 production
37 licensee, or dispensing licensee to operate in accordance with rules and regulations
38 established by the commission within 14 days of written notice by the commission of
39 specific violations. Such fines shall not exceed \$25,000.00 for a first offense, \$50,000.00
40 for a failure to remedy the offense within 60 days after written notice of a first offense,

41 and \$75,000.00 for subsequent failures to remedy noncompliance within 90 days after
42 written notice of a first offense. Following a third written notice of a recurring violation,
43 the commission may also order a licensee to cease operations for a period of up to 30
44 days to correct the violation. Any such fines or orders to cease operations shall be subject
45 to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.:' provided,
46 however, that any appeal from a final decision shall be made to the Georgia State-wide
47 Business Court in accordance with Code Section 16-12-221.1."

48 **SECTION 3.**

49 Said article is further amended by revising Code Section 16-12-206, relating to annual,
50 nontransferable dispensing license, adoption of rules, and fees, as follows:

51 "16-12-206.

52 (a)(1) Upon request by a licensed pharmacy in this state, the State Board of Pharmacy
53 shall be authorized to develop an annual, nontransferable specialty dispensing license for
54 an independent pharmacy with a registered office located within this state to dispense low
55 THC oil and products to registered patients. The State Board of Pharmacy shall develop
56 rules and regulations regarding dispensing pharmacies in this state in accordance with the
57 requirements contained in subsection (b) of this Code section.

58 (2) The commission shall be authorized to issue five dispensing licenses to each Class
59 1 production licensee and each Class 2 production licensee for retail outlets to dispense
60 low THC oil and products to registered patients. In addition, the commission shall be
61 authorized to issue a dispensing license for a retail outlet to each Class 1 production
62 licensee and each Class 2 production licensee for the purpose of establishing a retail
63 outlet for the dispensing of low THC oil and products to registered patients at the location
64 of the Class 1 production licensee's production facility or at the location of the Class 2
65 production licensee's production facility. The commission shall ensure that dispensing
66 licenses shall be issued so that retail outlets are dispersed throughout the state. The

67 commission shall develop rules and regulations regarding retail dispensing licensees in
68 this state in accordance with the requirements contained in subsection (b) of this Code
69 section. The commission shall be authorized to issue one additional dispensing license
70 to each Class 1 and Class 2 production licensee when the Low THC Oil Patient Registry
71 established and maintained pursuant to Code Section 31-2A-18 reaches 25,000 patients
72 and for every increase of 10,000 patients thereafter.

73 (b) The State Board of Pharmacy and the commission shall separately adopt rules relating
74 to the dispensing of low THC oil and products, with the State Board of Pharmacy
75 promulgating rules and regulations for pharmacies that dispense low THC oil and products
76 and the commission promulgating rules and regulations for other retail outlets that dispense
77 low THC oil and products. Such rules shall include but not be limited to:

78 (1) Standards, procedures, and protocols for the effective use of low THC oil and
79 products as authorized by state law and related rules and regulations;

80 (2) Standards, procedures, and protocols for the dispensing of low THC oil and products
81 by a pharmacy with a dispensing license and by retail dispensing licensees and for the
82 utilization of a tracking system;

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

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

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

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

- 93 (7) The establishment of other licensing, renewal, and operational standards which are
94 deemed necessary by the State Board of Pharmacy and the commission;
- 95 (8) The establishment of standards and procedures for testing low THC oil and products
96 for levels of tetrahydrocannabinol or other testing parameters deemed appropriate by the
97 State Board of Pharmacy and the commission;
- 98 (9) The establishment of health, safety, and security requirements for pharmacies and
99 retail dispensing licensees dispensing low THC oil and products; and
- 100 (10) Requirements for the issuance of dispensing licenses to pharmacies and Class 1 and
101 Class 2 production licensees.
- 102 (c) The commission shall be authorized, by rules and regulations, to establish fees for
103 dispensing licenses to Class 1 and Class 2 production licensees commensurate with the
104 location of the retail outlet and demand for low THC oil and products at such location.
- 105 (d) Each dispensing location shall be authorized to sell low THC oil and products from any
106 Class 1 or Class 2 production licensee in this state."

107 **SECTION 4.**

108 Said article is further amended by revising Code Section 16-12-207, relating to establishment
109 of Medical Cannabis Commission Oversight Committee, membership, inspections, provision
110 of information, plan for accredited lab testing, and patient and physician input, as follows:
111 "16-12-207.

- 112 (a) The General Assembly shall establish a Medical Cannabis Commission Oversight
113 Committee with two members appointed by the Lieutenant Governor and two members
114 appointed by the Speaker of the House of Representatives. Any member of the Medical
115 Cannabis Commission Oversight Committee shall be permitted to inspect any production
116 facility upon request and after reasonable notice is provided to the production facility.
- 117 (b) The commission shall promptly provide any document or information requested by the
118 oversight committee that is in its possession, provided that the commission shall not be

119 ~~required to share documents containing data identifying individual patients or physicians,~~
 120 ~~information marked as trade secrets by applicants or licensees, information that in the view~~
 121 ~~of the commission would interfere with an ongoing licensing applicant selection process,~~
 122 ~~or information that in the judgment of the commission would create law enforcement or~~
 123 ~~security risks to the citizens of Georgia~~ any information that would be exempt from public
 124 disclosure pursuant to Code Section 50-18-72 or pursuant to state or federal privacy laws.
 125 (c) ~~No later than August 1, 2021, the oversight committee shall recommend to the~~
 126 ~~commission a process and plan for providing accredited lab testing of products produced~~
 127 ~~by licensees and for labeling such products. The commission shall consider the~~
 128 ~~recommendations of the oversight committee in adopting policies, procedures, and~~
 129 ~~regulations regarding such testing and labeling~~ Reserved.
 130 (d) The oversight committee may regularly seek input from patients and physicians as to
 131 the availability and quality of products produced pursuant to this chapter, and recommend
 132 to the commission changes to policies, procedures, and regulations to improve availability
 133 and quality. The commission shall consider such recommendations in adopting policies,
 134 procedures, and regulations."

135 **SECTION 5.**

136 Said article is further amended by revising subsection (a) of Code Section 16-12-211, relating
 137 to Class 1 production licenses, application fees, revocation, and limitation of ownership, as
 138 follows:

139 "(a) The commission may issue up to two initial Class 1 production licenses. The
 140 commission may issue up to four additional Class 1 production licenses pursuant to
 141 subsection (a) of Code Section 16-12-221, provided that the total number of Class 1 and
 142 Class 2 production licenses shall not exceed 15 production licenses. A Class 1 production
 143 licensee shall be authorized to:

- 144 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited to
145 100,000 square feet of cultivation space; and
146 (2) Manufacture low THC oil and products."

147 **SECTION 6.**

148 Said article is further amended by revising subsection (a) of Code Section 16-12-212, relating
149 to Class 2 production licenses, application fees, revocation, and limitation of ownership, as
150 follows:

151 "(a) The commission may issue up to four initial Class 2 production licenses. The
152 commission may issue up to seven additional Class 2 production licenses pursuant to
153 subsection (a) of Code Section 16-12-221, provided that the total number of Class 1 and
154 Class 2 production licenses shall not exceed 15 production licenses. A Class 2 production
155 licensee shall be authorized to:

- 156 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited
157 to 50,000 square feet of cultivation space; and
158 (2) Manufacture low THC oil and products."

159 **SECTION 7.**

160 Said article is further amended by revising Code Section 16-12-220, relating to confidential
161 nature of data, exclusion, and patient privacy, as follows:

162 "16-12-220.

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

169 ~~commission pursuant to this article~~ shall be subject to Article 4 of Chapter 18 of Title 50,
170 relating to open records.

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

174 **SECTION 8.**

175 Said article is further amended by revising subsection (a) of Code Section 16-12-221, relating
176 to contracts awarded through bids or proposals, minimum contract terms and renewals,
177 subcontracting, and giving or receiving things of value limited, as follows:

178 "(a)(1) The commission shall grant initial licenses under this part pursuant to contracts
179 awarded through competitive sealed bids or competitive sealed proposals as provided for
180 in Article 3 of Chapter 5 of Title 50. After issuance of two initial Class 1 production
181 licenses pursuant to Code Section 16-12-211 and four initial Class 2 production licenses
182 pursuant to Code Section 16-12-212, and in the commission shall be authorized to issue
183 one additional Class 2 production license for every increase of 5,000 patients in the Low
184 THC Oil Patient Registry established and maintained pursuant to Code Section 31-2A-18
185 and one additional Class 1 production license for every increase of 10,000 patients in the
186 Low THC Oil Patient Registry, subject to the overall limit of total number of Class 1 and
187 Class 2 production licenses contained in Code Sections 16-12-211 and 16-12-212. The
188 initial increase in the number of patients in the Low THC Oil Patient Registry shall be
189 based on the number of patients in the registry as of January 1, 2023. The initial
190 additional licenses to be awarded under this paragraph shall be awarded to the apparent
191 successful applicants identified in the commission's notices of intent to award, dated
192 July 24, 2021, pursuant to its competitive application request for proposals for Class 1
193 and Class 2 production licenses, that filed post-award protests of such notices of intent
194 to award and appealed the administrative decisions denying such protests to the

195 respective superior court and, where appropriate, state appellate court. A person that filed
 196 a post-award protest which is on appeal that had applied for both a Class 1 and a Class 2
 197 production license pursuant to such notices of intent to award shall choose which class
 198 of license such person wants to receive. A person designated under this paragraph shall
 199 be awarded or issued either a Class 1 or a Class 2 production license, but not both. The
 200 aggregate number of Class 1 and Class 2 production licenses awarded or issued under this
 201 paragraph shall not exceed nine licenses.

202 (2) In the event that the commission revokes a Class 1 or Class 2 production license, a
 203 Class 1 or Class 2 production license is surrendered for any reason, or the commission
 204 issues an additional Class 1 production license pursuant to Code Section 16-12-214, the
 205 commission shall be authorized to issue any replacement Class 1 or Class 2 production
 206 licenses in accordance with rules and regulations established by the commission for such
 207 purpose. Such rules and regulations shall not otherwise conflict with this article, and to
 208 the extent practicable, such rules and regulations shall incorporate provisions and
 209 processes similar to Article 3 of Chapter 5 of Title 50."

210 **SECTION 9.**

211 Said article is further amended by adding a new Code section to read as follows:

212 "16-12-221.1.

213 (a) The Georgia State-wide Business Court shall exercise exclusive jurisdiction over any
 214 appeal by a party aggrieved by a final decision of the commission pursuant to this article.
 215 The Georgia State-wide Business Court shall conduct expedited hearings on any such
 216 appeals, and review by the court shall be confined to the record.

217 (b) The court shall not substitute its judgment for that of the commission as to the weight
 218 of the evidence on questions of fact committed to the discretion of the commission. The
 219 court may affirm any decision of the commission in whole or in part. The court shall
 220 reverse or remand any case for further proceedings if substantial rights of the appellant

221 have been prejudiced because the commission's findings, inferences, conclusions, or
222 decisions are:

223 (1) In violation of constitutional or statutory provisions or applicable procurement rules;

224 (2) Made upon unlawful procedures;

225 (3) Affected by other error of law;

226 (4) Not reasonably supported by material evidence in view of the reliable and probative
227 evidence in the record as a whole; or

228 (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
229 exercise of discretion.

230 (c) The court shall require a litigation bond or other form of surety payable to the state
231 from any protesting party in an amount determined by the court, which shall be forfeited
232 if the court affirms, in whole, the decision of the commission."

233 **SECTION 10.**

234 Said article is further amended by revising subsection (c) of Code Section 16-12-222, relating
235 to transfer of ownership, appeals, meaning of license, and transfer fees, as follows:

236 "(c) A licensee who has been denied transfer approval by the commission may file an
237 appeal with the Georgia State-wide Business Court in accordance with Code Section
238 16-12-221.1. in the Superior Court of Fulton County in accordance with Chapter 13 of
239 Title 50, the 'Georgia Administrative Procedure Act.'"

240 **SECTION 11.**

241 Said article is further amended by revising subsection (b) of Code Section 16-12-223,
242 relating to revocation of license and appeal, as follows:

243 "(b) A licensee whose license has been revoked by the commission may file an appeal with
244 the Georgia State-wide Business Court in accordance with Code Section 16-12-221.1. in

245 ~~the Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the~~
246 ~~'Georgia Administrative Procedure Act.'~~"

247 **SECTION 12.**

248 Said article is further amended by revising Code Section 16-12-224, relating to limitation on
249 ownership by member or former member of commission, limitation on physician's
250 involvement, and identification when contributing to political campaigns, as follows:

251 "16-12-224.

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

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

264 (c) Each member of the commission shall file an annual financial disclosure statement for
265 the preceding calendar year with the Office of Inspector General no later than July 1 of
266 each year. Such financial disclosure shall include ownership interests in businesses,
267 income, and source or sources of income for the previous calendar year. For any
268 commissioner serving as of May 1, 2023, such disclosure for the 2022 calendar year shall
269 be filed with the Office of Inspector General no later than May 31, 2023.

270 ~~(e)~~(d) A licensee that makes a campaign contribution pursuant to Article 2 of Chapter 5
 271 of Title 21 shall identify itself as a licensee under this part to the recipient of such
 272 campaign contribution."

273

SECTION 13.

274 Code Section 31-2A-18 of the Official Code of Georgia Annotated, relating to the Low THC
 275 Oil Patient Registry, is amended by revising paragraph (3) of subsection (a) as follows:

276 "(3) 'Condition' means:

277 (A) Cancer, when such disease is diagnosed as end stage or the treatment produces
 278 related wasting illness or recalcitrant nausea and vomiting;

279 (B) Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end
 280 stage;

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

282 (D) Multiple sclerosis, when such disease is diagnosed as severe or end stage;

283 (E) Crohn's disease;

284 (F) Mitochondrial disease;

285 (G) Parkinson's disease, when such disease is diagnosed as severe or end stage;

286 (H) Sickle cell disease, when such disease is diagnosed as severe or end stage;

287 (I) Tourette's syndrome, when such syndrome is diagnosed as severe;

288 (J) Autism spectrum disorder, when such disorder is diagnosed for a patient who is at
 289 least 18 years of age, or severe autism, when diagnosed for a patient who is less than
 290 18 years of age;

291 (K) Epidermolysis bullosa;

292 (L) Alzheimer's disease, when such disease is diagnosed as severe or end stage;

293 (M) Acquired immune deficiency syndrome, when such syndrome is diagnosed as
 294 severe or end stage;

295 (N) Peripheral neuropathy, when such symptoms are diagnosed as severe or end stage;

296 (O) Post-traumatic stress disorder resulting from direct exposure to or the witnessing
297 of a trauma for a patient who is at least 18 years of age; ~~or~~
298 (P) Intractable pain;
299 (Q) Ulcerative colitis; and
300 (R) Myasthenia gravis."

301 **SECTION 14.**

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

304 **SECTION 15.**

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