

House Bill 227 (COMMITTEE SUBSTITUTE)

By: Representatives Dickey of the 134th, Reeves of the 99th, Prince of the 132nd, Hagan of the 156th, Rhodes of the 124th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend various provisions of the Official Code of Georgia Annotated so as to rename low
2 THC oil as medical cannabis; to amend Chapter 12 of Title 16, Article 2 of Chapter 13 of
3 Title 16, and Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated,
4 relating to offenses against the public health and morals, regulation of controlled substances,
5 and general provisions relative to the Department of Public Health, respectively, so as to
6 clarify and revise criminal penalties; to clarify and revise exemptions to criminal penalties;
7 to revise the duties of the Georgia Access to Medical Cannabis Commission; to provide for
8 the provision of certain information by licensees; to provide limitations on the provision of
9 such information; to exclude the lawful possession and control of medical cannabis from the
10 provisions of the Georgia Controlled Substances Act; to revise the existing diagnosed
11 conditions for which a medical cannabis registration card can be issued; to provide for
12 conforming changes; to provide definitions; to provide a short title; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 227 (SUB)

PART I**SECTION 1-1.**

17 This Act shall be known and may be cited as the 'Putting Georgia's Patients First Act.'

PART II**SECTION 2-1.**

20 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
21 replacing "low THC oil" and "Low THC oil" with "medical cannabis" and "Medical
22 cannabis", respectively, wherever such terms occur in:

- 23 (1) Code Section 2-11-36, relating to seeds used in production of low THC oil;
- 24 (2) Code Section 2-23-9.2, relating to consumable hemp products, packaging,
25 advertising, and distribution; and
- 26 (3) Code Section 2-23-9.3, relating to location of retail establishments selling or
27 distributing consumable hemp products.

SECTION 2-2.

28 Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
29 access to medical cannabis, is amended by replacing "low THC oil" and "Low THC oil" with
30 "medical cannabis" and "Medical cannabis", respectively, and by replacing "Low THC Oil
31 Patient Registry" with "Medical Cannabis Patient Registry", wherever such terms occur in:

- 33 (1) Code Section 16-12-201, relating to prohibition against producing, growing,
34 manufacturing, or dispensing low THC oil or products;
- 35 (2) Code Section 16-12-203, relating to powers, duties, and responsibilities of the
36 Georgia Access to Medical Cannabis Commission;

- 37 (3) Code Section 16-12-204, relating to nontransferable designated university licenses
38 to produce low THC oil and products, research and reporting of collected information,
39 and license revocation;
- 40 (4) Code Section 16-12-206, relating to annual, nontransferable dispensing license,
41 adoption of rules, and fees;
- 42 (5) Code Section 16-12-210, relating to powers, duties, and responsibilities of the
43 Georgia Access to Medical Cannabis Commission, no undue burden on patients, and
44 remission of fees;
- 45 (6) Code Section 16-12-211, relating to class 1 production licenses, application fees,
46 revocation, and limitation on ownership;
- 47 (7) Code Section 16-12-212, relating to class 2 production licenses, application fee,
48 revocation, and limitation on ownership;
- 49 (8) Code Section 16-12-213, relating to tracking system requirements;
- 50 (9) Code Section 16-12-216, relating to Bureau of Investigation, Access to Medical
51 Cannabis Commission, and Composite Medical Board to jointly establish procedures to
52 ensure compliance;
- 53 (10) Code Section 16-12-217, relating to on-demand access to facilities, provision of
54 samples, testing, and secured transportation;
- 55 (11) Code Section 16-12-224, relating to limitation on ownership by member or former
56 member of the Georgia Access to Medical Cannabis Commission, limitation on
57 physician's involvement, and identification when contributing to political campaigns;
- 58 (12) Code Section 16-12-225, relating to criminal offenses and penalties;
- 59 (13) Code Section 16-12-226, relating to sales and use taxes applicable;
- 60 (14) Code Section 16-12-230, relating to requirements for dispensing low THC oil and
61 products;
- 62 (15) Code Section 16-12-231, relating to exemptions from arrest, prosecutions, or
63 penalty;

64 (16) Code Section 16-12-233, relating to contracts not against public policy;

65 (17) Code Section 16-12-234, relating to unlawful ways to ingest low THC oil or
66 products;

67 (18) Code Section 16-12-235, relating to research in compliance with federal regulations;
68 and

69 (19) Code Section 16-12-235.1, relating to possession of low THC oil and products by
70 colleges and universities for research purposes, permitting requirements, and inspection.

71 **SECTION 2-3.**

72 Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to
73 general provisions relative to the Department of Public Health, is amended in Code
74 Section 31-2A-18, relating to low THC oil patient registry, registration cards, reports, waiver
75 forms, and annual review and recommendations, by replacing "low THC oil" and "Low THC
76 oil" with "medical cannabis" and "Medical cannabis", respectively, and by replacing "Low
77 THC Oil Patient Registry" with "Medical Cannabis Patient Registry" wherever such terms
78 occur.

79 **SECTION 2-4.**

80 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
81 provisions relative to torts, is amended in Code Section 51-1-29.6, relating to liability of
82 healthcare institutions and providers regarding low THC oil, by replacing "low THC oil" and
83 "Low THC oil" with "medical cannabis" and "Medical cannabis", respectively.

84

PART III

85

SECTION 3-1.

86 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
 87 public health and morals, is amended by revising Article 8, relating to regulation of low THC
 88 oil, as follows:

89

"ARTICLE 8

90 16-12-190.

91 As used in this article, the term:

92 (1) 'Medical cannabis' ~~low THC oil~~ means an oil that contains an amount of cannabidiol
 93 and not more than 5 percent by weight of tetrahydrocannabinol, tetrahydrocannabinolic
 94 acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid which
 95 does not contain plant material exhibiting the external morphological features of the plant
 96 of the genus Cannabis. Such term shall not ~~mean~~ include:

97 (A) Goods ~~products~~ approved by the federal Food and Drug Administration under
 98 Section 505 of the federal Food, Drug, and Cosmetic Act; or

99 (B) Hemp or hemp products, as such terms are defined in Code Section 2-23-3.

100 (2) 'Product' shall have the same meaning as set forth in Code Section 16-12-200.

101 16-12-191.

102 (a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
 103 person to possess, purchase, or have under his or her control 20 fluid ounces or less of
 104 ~~low THC oil~~ medical cannabis or a product or products containing an equivalent amount
 105 of medical cannabis if such ~~substance~~ medical cannabis or product or products is in a

106 pharmaceutical container labeled by the manufacturer indicating the percentage of
107 tetrahydrocannabinol therein and:

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

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

115 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses,
116 purchases, or has under his or her control 20 fluid ounces or less of ~~low-THC oil~~ medical
117 cannabis or a product or products containing an equivalent amount of medical cannabis
118 without complying with paragraph (1) of this subsection shall be punished as for a
119 misdemeanor.

120 (b)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
121 person to possess, purchase, or have under his or her control 20 fluid ounces or less of
122 ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount
123 of medical cannabis if:

124 (A) Such person is involved in a clinical research program being conducted by the
125 Board of Regents of the University System of Georgia or any authorized clinical trial
126 or research study in this state or ~~their~~ its authorized agent as:

127 (i) A program participant;

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

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

131 (iv) A program agent;

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

- 133 (vi) A program supplier and ~~their~~ its designated employees;
- 134 (vii) A program physician;
- 135 (viii) A program clinical researcher;
- 136 (ix) Program pharmacy personnel; or
- 137 (x) Other program medical personnel; and
- 138 (B) Such ~~substance~~ medical cannabis or product or products is in a pharmaceutical
139 container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol
140 therein.
- 141 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses,
142 purchases, or has under his or her control 20 fluid ounces or less of ~~low-THC oil~~ medical
143 cannabis or a product or products containing an equivalent amount of medical cannabis
144 without complying with ~~subparagraphs (A), (B), and (C)~~ of paragraph (1) of this
145 subsection shall be punished as for a misdemeanor.
- 146 (c) Notwithstanding any provision of Chapter 13 of this title, any person having possession
147 of, purchasing, or having under his or her control more than 20 fluid ounces of ~~low-THC~~
148 ~~oil~~ but less than 160 fluid ounces of ~~low-THC oil~~ medical cannabis or a product or products
149 containing an equivalent amount of medical cannabis or who manufactures, distributes,
150 dispenses, sells, purchases, or possesses with the intent to distribute ~~low-THC oil~~ medical
151 cannabis shall be guilty of a felony and, upon conviction thereof, shall be punished by
152 imprisonment for not less than one year nor more than ten years, a fine not to
153 exceed \$50,000.00, or both.
- 154 (d) Notwithstanding any provision of Chapter 13 of this title, any person who sells,
155 manufactures, delivers, brings into this state, purchases, or has possession of 160 or more
156 fluid ounces of ~~low-THC oil~~ medical cannabis or a product or products containing an
157 equivalent amount of medical cannabis shall be guilty of the felony offense of trafficking
158 in ~~low-THC oil~~ medical cannabis and, upon conviction thereof, shall be punished as
159 follows:

160 (1) If the quantity of ~~low-THC oil~~ medical cannabis is at least 160 fluid ounces but less
161 than 31,000 fluid ounces, or the product or products contain an equivalent amount of
162 medical cannabis, by imprisonment for not less than five years nor more than ten years
163 and a fine not to exceed \$100,000.00;

164 (2) If the quantity of ~~low-THC oil~~ medical cannabis is at least 31,000 fluid ounces but
165 less than 154,000 fluid ounces, or the product or products contain an equivalent amount
166 of medical cannabis, by imprisonment for not less than seven years nor more than 15
167 years and a fine not to exceed \$250,000.00; and

168 (3) If the quantity of ~~low-THC oil~~ medical cannabis is 154,000 or more fluid ounces, or
169 the product or products contain an equivalent amount of medical cannabis, by
170 imprisonment for not less than ten years nor more than 20 years and a fine not to
171 exceed \$1 million.

172 (e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a
173 research program being conducted by the Board of Regents of the University System of
174 Georgia or its authorized agent as an employee of the board of regents designated to
175 participate in such program, a program agent, a program collaborator and ~~their~~ its
176 designated employees, a program supplier and ~~their~~ its designated employees, a physician,
177 clinical researcher, pharmacy personnel, or other medical personnel.

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

182 (g) Nothing in this article shall require an employer to permit or accommodate the use,
183 consumption, possession, transfer, display, transportation, purchase, sale, or growing of
184 marijuana in any form, or to affect the ability of an employer to have a written zero
185 tolerance policy prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any

186 employee from having a detectable amount of marijuana in such employee's system while
 187 at work."

188 **SECTION 3-2.**

189 Said chapter is further amended by revising Code Section 16-12-200, relating to definitions
 190 relative to access to medical cannabis, as follows:

191 "16-12-200.

192 As used in this article, the term:

- 193 (1) 'Applicant' means a corporate entity applying for a license pursuant to this article.
 194 (2) 'Available capital' means corporate assets that are available to fund business
 195 operations in the event a license is awarded pursuant to Part 2 of this article.
 196 (3) 'Class 1 production license' means a license to produce and manufacture ~~low-THC~~
 197 ~~oil~~ medical cannabis and products issued pursuant to Code Section 16-12-211.
 198 (4) 'Class 2 production license' means a license to produce and manufacture ~~low-THC~~
 199 ~~oil~~ medical cannabis and products issued pursuant to Code Section 16-12-212.
 200 (5) 'Commission' means the Georgia Access to Medical Cannabis Commission created
 201 pursuant to Code Section 16-12-202.
 202 (6) 'Designated universities' means the University of Georgia and Fort Valley State
 203 University.
 204 (7) 'Designated university license' means a license issued by the commission pursuant
 205 to this article to a designated university to, separately or jointly, produce, manufacture,
 206 and purchase ~~low-THC oil~~ medical cannabis and products in accordance with this article.
 207 (8) 'Dispense' means the sale or provision of ~~low-THC oil~~ medical cannabis and products
 208 to registered patients by a dispensing licensee.
 209 (9) 'Dispensing license' means a specialty license issued by the State Board of Pharmacy
 210 or the commission pursuant to Code Section 16-12-206 to dispense ~~low-THC oil~~ medical
 211 cannabis and products to registered patients.

212 (10) 'Grow' means cultivating and harvesting cannabis for use in producing ~~low-THC oil~~
213 medical cannabis and products.

214 (11) 'Licensee' means any business, or owner of such business, with a valid license
215 issued pursuant to this article.

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

217 (13) 'Manufacture' means to process cannabis to produce ~~low-THC oil~~ medical cannabis
218 and products.

219 (13) 'Medical cannabis' shall have the same meaning as set forth in Code
220 Section 16-12-190.

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

226 (15) 'Product' means ~~low-THC oil~~ medical cannabis delivered through an oil, tincture,
227 transdermal patch, lotion, or capsule, except as prohibited by Code Section 16-12-234,
228 but not including hemp products, as such term is defined in Code Section 2-23-3, or any
229 food products infused with ~~low-THC oil~~ medical cannabis, including, but not limited to,
230 cookies, candies, or edibles.

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

233 (17) 'Tracking system' means a seed-to-sale tracking system to track marijuana that is
234 grown, processed, manufactured, transferred, stored, or disposed of and ~~low-THC oil~~
235 medical cannabis and products that are transferred, stored, sold, dispensed, or disposed
236 of pursuant to this article."

237 **SECTION 3-3.**

238 Said chapter is further amended in Code Section 16-12-203, relating to the powers, duties,
239 and responsibilities of the Georgia Access to Medical Cannabis Commission, by adding a
240 new paragraph to read as follows:

241 "(10.1) To engage in public awareness activities concerning the medical cannabis
242 program in this state and effective uses of medical cannabis and products, including, but
243 not limited to, publishing materials and conducting outreach and public education
244 activities to inform members of the public, law enforcement, and healthcare providers
245 about the medical cannabis program in this state and the potential benefits that medical
246 cannabis and products may have to eligible patients;"

247 **SECTION 3-4.**

248 Said chapter is further amended by revising Code Section 16-12-215, relating to limitations
249 on locations, advertising or marketing prohibited, and information available to physicians,
250 as follows:

251 "16-12-215.

252 (a) No licensee shall operate in any location, whether for cultivation, harvesting, and
253 processing of marijuana or for processing, manufacturing, packaging, or distributing ~~low~~
254 ~~THC oil~~ medical cannabis or products, within a 3,000 foot radius of a covered entity,
255 measured from property boundary to property boundary. No dispensing licensee may
256 operate in any location within a 1,000 foot radius of a covered entity, measured from
257 property boundary to property boundary. Notwithstanding the provisions of this
258 subsection, local governments may, via use of existing zoning powers otherwise provided
259 by law, allow dispensing licensees only to locate in places other than those provided in this
260 subsection so long as such modification is needed to allow retail outlets to be established
261 to service registered patients residing within such local jurisdiction. As used in this
262 subsection, the term 'covered entity' means a public or private school; an early care and

263 education program as defined in Code Section 20-1A-2; or a church, synagogue, or other
 264 place of public religious worship, in existence prior to the date of licensure of such licensee
 265 by the commission or State Board of Pharmacy.

266 (b)(1) No licensee shall advertise or market ~~low-THC oil~~ medical cannabis or products
 267 to registered patients or the public; provided, however, that a licensee shall be authorized
 268 to provide information regarding its ~~low-THC oil~~ medical cannabis and products directly
 269 to physicians, registered patients, and caregivers; provided, further, that such information
 270 shall be subject to and meet the requirements set forth in the rules and regulations
 271 promulgated by the commission pursuant to paragraph (2) of this subsection.

272 (2) The commission shall promulgate rules and regulations governing information
 273 provided by licensees under paragraph (1) of this subsection to ensure that such
 274 information:

275 (A) Does not include medical claims that are unsupported by reliable scientific
 276 evidence;

277 (B) Does not make any false or misleading claim;

278 (C) Is not attractive to children or otherwise directly or indirectly targeted to children;
 279 and

280 (D) Is not otherwise unfair and deceptive or harmful to the public."

281 **SECTION 3-5.**

282 Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
 283 regulation of controlled substances, is amended in Code Section 16-13-21, relating to
 284 definitions, by revising paragraph (16) as follows:

285 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
 286 not, the seeds thereof, the resin extracted from any part of such plant, and every
 287 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
 288 or resin, but shall not include samples as described in subparagraph (P) of paragraph (3)

289 of Code Section 16-13-25; shall not include the completely defoliated mature stalks of
 290 such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
 291 samples of seeds of the plant which are incapable of germination; and shall not include
 292 hemp or hemp products, as such terms are defined in Code Section 2-23-3, or medical
 293 cannabis or products, as such terms are defined in Code Sections 16-12-190 and
 294 16-12-200, respectively, when in the possession or control of a person authorized to
 295 possess and control such medical cannabis or products under the provisions of Article 8
 296 or Article 9 of Chapter 12 of this title. Such term shall not include products approved by
 297 the federal Food and Drug Administration under Section 505 of the federal Food, Drug,
 298 and Cosmetic Act."

299 **SECTION 3-6.**

300 Said article is further amended in Code Section 16-13-25, relating to Schedule I, by revising
 301 subparagraph (P) of paragraph (3) as follows:

302 "(P) Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of
 303 tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant
 304 material exhibiting the external morphological features of the plant of the genus
 305 Cannabis, but not including such substance when found in hemp or hemp products, as
 306 such terms are defined in Code Section 2-23-3, or in medical cannabis or products, as
 307 such terms are defined in Code Sections 16-12-190 and 16-12-200, respectively, when
 308 in the possession or control of a person authorized to possess or control such medical
 309 cannabis or products under the provisions of Article 8 or Article 9 of Chapter 12 of this
 310 title. Tetrahydrocannabinols do not include products approved by the federal Food and
 311 Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act;"

312 **SECTION 3-7.**

313 Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to
314 general provisions relative to the Department of Public Health, is amended in Code
315 Section 31-2A-18, relating to Low THC Oil Patient Registry, registration cards, reports,
316 waiver forms, and annual review and recommendations, by revising paragraph (3) of
317 subsection (a) as follows:

318 "(3) 'Condition' means:

- 319 (A) ~~Cancer, when such disease is diagnosed as end stage or the treatment produces~~
320 ~~related wasting illness or recalcitrant nausea and vomiting;~~
- 321 (B) ~~Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end~~
322 ~~stage;~~
- 323 (C) Seizure disorders related to a diagnosis of epilepsy or trauma related head injuries;
- 324 (D) ~~Multiple sclerosis, when such disease is diagnosed as severe or end stage;~~
- 325 (E) Crohn's disease;
- 326 (F) Mitochondrial disease;
- 327 (G) ~~Parkinson's disease, when such disease is diagnosed as severe or end stage;~~
- 328 (H) ~~Sickle cell disease, when such disease is diagnosed as severe or end stage;~~
- 329 (I) ~~Tourette's syndrome, when such syndrome is diagnosed as severe;~~
- 330 (J) ~~Autism spectrum disorder, when such disorder is diagnosed for a patient who is at~~
331 ~~least 18 years of age, or severe autism, when diagnosed for a patient who is less than~~
332 ~~18 years of age;~~
- 333 (K) Epidermolysis bullosa;
- 334 (L) ~~Alzheimer's disease, when such disease is diagnosed as severe or end stage;~~
- 335 (M) ~~Acquired immune deficiency syndrome, when such syndrome is diagnosed as~~
336 ~~severe or end stage;~~
- 337 (N) ~~Peripheral neuropathy, when such symptoms are diagnosed as severe or end stage;~~
- 338 (O) ~~Post-traumatic stress disorder, resulting from direct exposure to or the witnessing~~
339 ~~of a trauma for a patient who is at least 18 years of age; or~~

340 (P) Intractable pain; or

341 (Q) Lupus."

342

PART IV

343

SECTION 4-1.

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