

House Bill 1400

By: Representatives Powell of the 32nd, Wilkerson of the 38th, Jackson of the 128th, Tarvin of the 2nd, Carpenter of the 4th, and others

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 is subject to state procurement laws; to revise the Medical Cannabis
4 Commission Oversight Committee; to provide for information to be provided to such
5 committee; to revise the number of Class 1 and Class 2 production licenses that can be issued
6 by the commission; to revise dates for the retrospective study of minority participation; to
7 provide that the Georgia Access to Medical Cannabis Commission is subject to open records
8 laws; to provide for third-party consultants; to provide for the issuance of certain licenses by
9 a date certain; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
14 access to medical cannabis, is amended by revising paragraph (2) of Code
15 Section 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to
16 Medical Cannabis Commission, as follows:

H. B. 1400

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

25 **SECTION 2.**

26 Said article is further amended by revising Code Section 16-12-207, relating to establishment
 27 of Medical Cannabis Commission Oversight Committee, membership, and inspections, as
 28 follows:

29 "16-12-207.

30 (a) The General Assembly shall establish a Medical Cannabis Commission Oversight
 31 Committee with two members appointed by the Lieutenant Governor and two members
 32 appointed by the Speaker of the House of Representatives. Any member of the Medical
 33 Cannabis Commission Oversight Committee shall be permitted to inspect any production
 34 facility upon request and after reasonable notice is provided to the production facility. The
 35 terms of office of the members of the oversight committee serving on June 30, 2022, shall
 36 end on such date.

37 **(b) On and after July 1, 2022, the Medical Cannabis Commission Oversight Committee**
 38 **shall be composed of the members of the House Committee on Regulated Industries and**
 39 **the Senate Regulated Industries and Utilities Committee. The chairpersons of such House**
 40 **and Senate committees shall serve as co-chairpersons of the oversight committee.**

41 **(b)(c)** The commission shall promptly provide any document or information requested by
 42 the oversight committee that is in its possession, provided that the commission shall not

43 ~~share documents containing data identifying individual patients or physicians, information~~
44 ~~marked as trade secrets by applicants or licensees, information that in the view of the~~
45 ~~commission would interfere with an ongoing licensing applicant selection process, or~~
46 ~~information that in the judgment of the commission would create law enforcement or~~
47 ~~security risks to the citizens of Georgia~~ any information that would be exempt from public
48 disclosure pursuant to Code Section 50-18-72 or pursuant to state or federal privacy laws.

49 ~~(c)~~(d) No later than August 1, 2021, the oversight committee shall recommend to the
50 commission a process and plan for providing accredited lab testing of products produced
51 by licensees and for labeling such products. The commission shall consider the
52 recommendations of the oversight committee in adopting policies, procedures, and
53 regulations regarding such testing and labeling.

54 ~~(d)~~(e) The oversight committee may regularly seek input from patients and physicians as
55 to the availability and quality of products produced pursuant to this chapter, and
56 recommend to the commission changes to policies, procedures, and regulations to improve
57 availability and quality. The commission shall consider such recommendations in adopting
58 policies, procedures, and regulations."

59 **SECTION 3.**

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

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

65 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited to
66 100,000 square feet of cultivation space; and

67 (2) Manufacture low THC oil and products."

68 **SECTION 4.**

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

72 "(a) The commission may issue up to ~~four~~ 19 Class 2 production licenses. A Class 2
73 production licensee shall be authorized to:

- 74 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited to
75 50,000 square feet of cultivation space; and
76 (2) Manufacture low THC oil and products."

77 **SECTION 5.**

78 Said article is further amended by revising Code Section 16-12-214, relating to study on
79 minority and women participation and addressing discrimination, as follows:

80 "16-12-214.

81 (a) Beginning January 1, ~~2022~~ 2024, the commission shall undertake a retrospective study
82 of the participation of minority and women owned businesses as licensees under this part
83 for the period from January 1, ~~2020~~ 2022, through December 31, ~~2021~~ 2023. Thereafter,
84 the commission shall conduct such study every four years for the immediately preceding
85 four-year period.

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

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

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

- 94 (2) Reissuing any licenses that have been surrendered or revoked to minority or women
95 owned businesses; or
96 (3) A combination of the above.
97 (d) This Code section shall not require the commission to issue a license to any applicant
98 unless such applicant otherwise meets all requirements for licensure under this part."

99 **SECTION 6.**

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

102 "16-12-220.

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

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

114

SECTION 7.

115 Said article is further amended by revising Code Section 16-12-221, relating to contracts
116 awarded through bids or proposals, minimum contract terms and renewals, subcontracting,
117 and giving or receiving things of value limited, as follows:

118 "16-12-221.

119 (a) The commission shall grant ~~initial~~ licenses under this part pursuant to contracts
120 awarded through competitive sealed bids or competitive sealed proposals ~~as provided for~~
121 in accordance with the state purchasing laws contained in Article 3 of Chapter 5 of Title
122 50. The commission shall retain qualified third-party consultants to assist the commission
123 in developing procurement solicitation documents and evaluation criteria, in reviewing and
124 evaluating proposals, or to provide other advice to the commission on the competitive
125 application and review process. After issuance of two initial Class 1 production licenses
126 pursuant to Code Section 16-12-211 and four initial Class 2 production licenses pursuant
127 to Code Section 16-12-212, and in the event that the commission revokes a Class 1 or
128 Class 2 production license, a Class 1 or 2 production license is surrendered for any reason,
129 or the commission issues an additional Class 1 production license pursuant to Code
130 Section 16-12-214, the commission shall be authorized to issue any replacement Class 1
131 or Class 2 production licenses in accordance with rules and regulations established by the
132 commission for such purpose. Such rules and regulations shall not otherwise conflict with
133 this article, and to the extent practicable, such rules and regulations shall incorporate
134 provisions and processes similar to Article 3 of Chapter 5 of Title 50. Replacement
135 licenses may be awarded for any licenses that are revoked or surrendered.

136 (b) No later than June 30, 2022, the commission shall award up to seven additional Class 1
137 production licenses and up to 15 additional Class 2 production licenses. Such licenses shall
138 be awarded to the apparent successful applicants identified in the commission's notices of
139 intent to award, dated July 24, 2021, pursuant to its competitive application request for
140 proposals for Class 1 and Class 2 production licenses, and shall be awarded to those

141 applicants that filed post-award protests to such notices of intent to award. A person that
142 filed a post-award protest that had applied for both a Class 1 and a Class 2 production
143 license pursuant to such notices of intent to award shall choose which class of license such
144 person wants to receive. A person designated under this subsection shall be awarded or
145 issued either a Class 1 or a Class 2 production license, but not both. The aggregate number
146 of Class 1 and Class 2 production licenses awarded or issued shall not exceed 22.

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

149 ~~(c)~~(d) No licensee shall subcontract for services for the cultivation or processing in any
150 way of marijuana if the subcontractor, or any of the service providers in the chain of
151 subcontractors, is owned wholly or in excess of 5 percent by any state employee or member
152 of a state employee's immediate family, including but not limited to any legislator,
153 state-wide public official, or employee of a designated university. For purposes of this
154 subsection, the term 'immediate family member' means a spouse, child, sibling, or parent
155 or the spouse of a child, sibling, or parent.

156 ~~(d)~~(e) No licensee shall give or receive anything of value in connection with any contract,
157 memorandum of understanding, or cooperative endeavor agreement executed pursuant to
158 this part except the value that is expressed in the contract, memorandum of understanding,
159 or cooperative endeavor agreement."

160 **SECTION 8.**

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

163 **SECTION 9.**

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