

House Bill 337

By: Representatives Marin of the 96<sup>th</sup>, Willis of the 55<sup>th</sup>, Schofield of the 63<sup>rd</sup>, Davis of the 87<sup>th</sup>, Beverly of the 143<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 2, Chapter 12 of Title 16, Article 1 of Chapter 2A of Title 31,  
2 and Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to seeds and  
3 plants generally, offenses against public health and morals, general provisions relative to the  
4 Department of Public Health, and general provisions relative to torts, respectively, so as to  
5 authorize the use, production, manufacturing, and dispensing of medical marijuana in this  
6 state; to provide for the medical conditions for which medical marijuana may be prescribed  
7 and used; to provide for conforming changes; to provide for related matters; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 11 of Title 2 of the Official Code of Georgia Annotated, relating to seeds and plants  
12 generally, is amended by revising Code Section 2-11-36, relating to seeds used in production  
13 of low THC oil, as follows:

14 "2-11-36.

15 This article shall not apply to seeds used for the production of ~~low-THC oil~~ medical  
16 marijuana in accordance with Article 9 of Chapter 12 of Title 16 and no person shall be

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17 subject to regulation or penalties pursuant to this article for growing, selling, offering for  
18 sale, exposing for sale, or transporting in this state any seed used for the lawful production  
19 of ~~low THC oil~~ medical marijuana pursuant to Article 9 of Chapter 12 of Title 16."

20

## SECTION 2.

21 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
22 public health and morals, is amended by revising Code Section 16-12-190, relating to  
23 definitions relative to regulation of low THC oil, as follows:

24 "16-12-190.

25 As used in this article, the term '~~low THC oil~~' ~~means an oil that contains an amount of~~  
26 ~~cannabidiol and not more than 5 percent by weight of tetrahydrocannabinol,~~  
27 ~~tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and~~  
28 ~~tetrahydrocannabinolic acid which does not contain plant material exhibiting the external~~  
29 ~~morphological features of the plant of the genus Cannabis. Such term shall not mean~~  
30 ~~products approved by the federal Food and Drug Administration under Section 505 of the~~  
31 ~~federal Food, Drug, and Cosmetic Act~~ 'medical marijuana' means all parts of the plant of  
32 the genus Cannabis, whether growing or not, the seed thereof, the resin extracted from any  
33 part of such plant, and every compound, manufacture, salt, derivative, mixture, or  
34 preparation of such plant, its seed, or resin that has been converted into a liquid or solid  
35 substance."

36

## SECTION 3.

37 Said title is further amended by revising Code Section 16-12-191, relating to possession,  
38 manufacture, distribution, or sale of low THC oil and penalties, as follows:

39 "16-12-191.

40 (a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any  
41 person to possess, purchase, or have under his or her control ~~20 fluid ounces or less of~~

42 ~~low-THC oil~~ medical marijuana if such substance is in a pharmaceutical container labeled  
 43 by the manufacturer indicating the percentage of tetrahydrocannabinol therein and:

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

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

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

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

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

- 61 (i) A ~~program~~ participant;
- 62 (ii) A parent, guardian, or legal custodian of a ~~program~~ participant;
- 63 (iii) A designated ~~An~~ employee of the board of regents ~~designated to participate in~~  
 64 ~~the research program~~;
- 65 (iv) An ~~A~~ ~~program~~ agent;
- 66 (v) A ~~program~~ collaborator and ~~their~~ its designated employees;
- 67 (vi) A ~~program~~ supplier and ~~their~~ its designated employees;
- 68 (vii) A ~~program~~ physician;

69 (viii) A ~~program~~ clinical researcher;

70 (ix) ~~Pharmacy Program~~ pharmacy personnel; or

71 (x) Other ~~program~~ medical personnel; and

72 (B) Such substance is in a pharmaceutical container labeled by the manufacturer  
73 indicating the percentage of tetrahydrocannabinol therein.

74 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses,  
75 purchases, or has under his or her control ~~20 fluid ounces or less of low-THC oil~~ medical  
76 marijuana without complying with subparagraphs (A), (B), and (C) of paragraph (1) of  
77 this subsection shall be punished as for a misdemeanor.

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

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

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

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

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

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

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

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

#### 112 **SECTION 4.**

113 Said title is further amended by revising Code Section 16-12-200, relating to definitions  
 114 relative to access to medical cannabis, as follows:

115 "16-12-200.

116 As used in this article, the term:

117 (1) 'Applicant' means a corporate entity applying for a license pursuant to this article.

118 (2) 'Available capital' means corporate assets that are available to fund business  
 119 operations in the event a license is awarded pursuant to Part 2 of this article.

120 (3) 'Class 1 production license' means a license to produce and manufacture ~~low-THC~~  
 121 ~~or~~ medical marijuana and products issued pursuant to Code Section 16-12-211.

- 122 (4) 'Class 2 production license' means a license to produce and manufacture ~~low-THC~~  
123 ~~oil~~ medical marijuana and products issued pursuant to Code Section 16-12-212.
- 124 (5) 'Commission' means the Georgia Access to Medical Cannabis Commission created  
125 pursuant to Code Section 16-12-202.
- 126 (6) 'Designated universities' means the University of Georgia and Fort Valley State  
127 University, and also includes any other research institution or institution classified as a  
128 historically black college or university in this state.
- 129 (7) 'Designated university license' means a license issued by the commission pursuant  
130 to this article to a designated university to, ~~separately~~ individually or jointly, produce,  
131 manufacture, ~~and or~~ purchase, or any combination thereof, ~~low-THC oil~~ medical  
132 marijuana and products in accordance with this article.
- 133 (8) 'Dispense' means the sale or provision of ~~low-THC oil~~ medical marijuana and  
134 products to registered patients by a dispensing licensee.
- 135 (9) 'Dispensing license' means a specialty license issued by the State Board of Pharmacy  
136 or the commission pursuant to Code Section 16-12-206 to dispense ~~low-THC oil~~ medical  
137 marijuana and products to registered patients.
- 138 (10) 'Grow' means cultivating and harvesting cannabis for use in producing ~~low-THC oil~~  
139 medical marijuana and products.
- 140 (11) 'Licensee' means any business, or owner of such business, with a valid license  
141 issued pursuant to this article.
- 142 ~~(12) 'Low-THC oil' shall have the same meaning as set forth in Code Section 16-12-190.~~
- 143 ~~(13)~~(12) 'Manufacture' means to process cannabis to produce ~~low-THC oil~~ medical  
144 marijuana and products.
- 145 (13) 'Medical marijuana' shall have the same meaning as set forth in Code Section  
146 16-12-190.
- 147 (14) 'Owner' means any person who directly or indirectly owns, actually or beneficially,  
148 or controls 5 percent or greater of interests of the applicant or any licensee. In the event

149 that one person owns a beneficial right to interests and another person holds the voting  
150 rights with respect to such interests, then both shall be considered an owner of such  
151 interests.

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

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

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

## 162 **SECTION 5.**

163 Said chapter is further amended by replacing "low THC oil", "Low THC oil", and "Low THC  
164 Oil" with "medical marijuana", "Medical marijuana", and "Medical Marijuana", respectively,  
165 wherever the former terms occur in:

166 (1) Code Section 16-12-201, relating to prohibition against producing, growing,  
167 manufacturing, or dispensing low THC oil or products;

168 (2) Code Section 16-12-203, relating to powers, duties and responsibilities;

169 (3) Code Section 16-12-204, relating to issuance of nontransferable designated university  
170 licenses for production of low THC oil, research on therapeutic use, reporting, collected  
171 information, and license revocation;

172 (4) Code Section 16-12-206, relating to annual, nontransferable dispensing license, and  
173 adoption of rules;

- 174 (5) Code Section 16-12-210, relating to powers, duties, and responsibilities of Commission,  
175 no undue burden on patients, and remission of fees;
- 176 (6) Code Section 16-12-211, relating to Class 1 production licenses, application fee,  
177 revocation, limitation on ownership, and replacement license;
- 178 (7) Code Section 16-12-212, relating to Class 2 production licenses, application fees,  
179 revocation, limitation on ownership, and replacement license;
- 180 (8) Code Section 16-12-213, relating to tracking systems required;
- 181 (9) Code Section 16-12-215, relating to limitation on locations, advertising or marketing  
182 prohibited, and information available to physicians;
- 183 (10) Code Section 16-12-216, relating to Bureau of Investigation ensures compliance;
- 184 (11) Code Section 16-12-217, relating to on-demand access to facilities, provision of  
185 samples, testing, and secured transportation;
- 186 (12) Code Section 16-12-224, relating to limitation on ownership by member or former  
187 member of commission, limitation on physician's involvement, and identification when  
188 contributing to political campaigns;
- 189 (13) Code Section 16-12-225, relating to criminal offenses and penalty;
- 190 (14) Code Section 16-12-226, relating to sales and use taxes applicable;
- 191 (15) Code Section 16-12-230, relating to requirements for dispensing low THC oil;
- 192 (16) Code Section 16-12-231, relating to exemptions from arrest and prosecutions or  
193 penalty;
- 194 (17) Code Section 16-12-233, relating to contracts not against public policy;
- 195 (18) Code Section 16-12-234, relating to unlawful ways to ingest low THC oil; and
- 196 (19) Code Section 16-12-235, relating to research in compliance with federal regulations and  
197 other research permitted.

198

**SECTION 6.**

199 Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to  
200 general provisions relative to the Department of Public Health, is amended by revising Code  
201 Section 31-2A-18, relating to establishment of the Low THC Oil Patient Registry, as follows:

202 "31-2A-18.

203 (a) As used in this Code section, the term:

204 (1) 'Board' means the Georgia Composite Medical Board.

205 (2) 'Caregiver' means the parent, guardian, or legal custodian of an individual who is less  
206 than 18 years of age or the legal guardian of an adult.

207 (3) 'Condition' means:

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

210 (B) ~~Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end~~  
211 ~~stage;~~

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

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

214 (E) Crohn's disease;

215 (F) Mitochondrial disease;

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

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

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

219 (J) Autism spectrum disorder, when such disorder is diagnosed for a patient who is at  
220 least 18 years of age, or severe autism, when diagnosed for a patient who is less than  
221 18 years of age;

222 (K) Epidermolysis bullosa;

223 (L) Alzheimer's disease or dementia, ~~when such disease is diagnosed as severe or end~~  
224 ~~stage;~~

- 225 (M) Acquired immune deficiency syndrome, ~~when such syndrome is diagnosed as~~  
 226 ~~severe or end stage;~~
- 227 (N) Peripheral neuropathy, ~~when such symptoms are diagnosed as severe or end stage;~~
- 228 (O) Post-traumatic stress disorder resulting from direct exposure to or the witnessing  
 229 of a trauma for a patient who is at least 18 years of age; ~~or~~
- 230 (P) Intractable pain;
- 231 (Q) Ulcerative colitis;
- 232 (R) Lupus;
- 233 (S) Glaucoma;
- 234 (T) Hepatitis C;
- 235 (U) Fibromyalgia;
- 236 (V) Severe arthritis;
- 237 (W) Rheumatoid arthritis;
- 238 (X) Cerebral palsy;
- 239 (Y) Anorexia;
- 240 (Z) Cachexia; or
- 241 (AA) Huntington's disease.
- 242 (4) 'Department' means the Department of Public Health.
- 243 (5) 'Intractable pain' means pain that has a cause that cannot be removed and for which,  
 244 according to generally accepted medical practice, the full range of pain management  
 245 modalities appropriate for the patient has been used for a period of at least six months  
 246 without adequate results or with intolerable side effects.
- 247 (6) ~~Low-THC Oil~~ Medical marijuana shall have the same meaning as set forth in Code  
 248 Section 16-12-190.
- 249 (7) 'Physician' means an individual licensed to practice medicine pursuant to Article 2  
 250 of Chapter 34 of Title 43.
- 251 (8) 'Registry' means the ~~Low-THC Oil~~ Medical Marijuana Patient Registry.

252 (b) There is established within the department the ~~Low-THC-Oil~~ Medical Marijuana  
253 Patient Registry.

254 (c) The purpose of the registry is to provide a registration of individuals and caregivers  
255 who have been issued registration cards. The department shall establish procedures and  
256 promulgate rules and regulations for the establishment and operation of the registration  
257 process and dispensing of registry cards to individuals and caregivers.

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

274 (e) The board shall require physicians to issue semiannual reports to the board. Such  
275 reports shall require physicians to provide information, including, but not limited to,  
276 dosages recommended for a particular condition, patient clinical responses, levels of  
277 tetrahydrocannabinol or tetrahydrocannabinolic acid present in test results, compliance,  
278 responses to treatment, side effects, and drug interactions. Such reports shall be used for

279 research purposes to determine the efficacy of the use of ~~low-THC-oil~~ medical marijuana  
280 as a treatment for conditions.

281 (f) Information received and records kept by the department for purposes of administering  
282 this Code section shall be confidential; provided, however, that such information shall be  
283 disclosed, subject to the provisions of the federal Health Insurance Portability and  
284 Accountability Act of 1996, P.L. 104-191, and any regulations promulgated thereunder:

285 (1) Upon written request of an individual or caregiver registered pursuant to this Code  
286 section for information related to the individual or his or her caregiver;

287 (2) To peace officers and prosecuting attorneys for the purpose of:

288 (A) Verifying that an individual in possession of a registration card is registered  
289 pursuant to this Code section; or

290 (B) Determining that an individual in possession of ~~low-THC-oil~~ medical marijuana is  
291 registered pursuant to this Code section; and

292 (3) To government entities and other entities for statistical, research, educational,  
293 instructional, drug abuse prevention, or grant application purposes after removing all  
294 personal identifiers from the health information and removing all information that could  
295 be used to identify prescribers.

296 (g) The board shall develop a waiver form that will advise that the use of cannabinoids and  
297 THC containing products have not been approved by the FDA and the clinical benefits are  
298 unknown and may cause harm. Any patient or caregiver shall sign such waiver prior to his  
299 or her approval for registration.

300 (h) The board, in coordination with the Department of Public Health, shall annually review  
301 the conditions included in paragraph (3) of subsection (a) of this Code section and  
302 recommend additional conditions that have been shown through medical research to be  
303 effectively treated with ~~low-THC-oil~~ medical marijuana. Such recommendations shall  
304 include recommended dosages for a particular condition, patient responses to treatment  
305 with respect to the particular condition, and drug interactions with other drugs commonly

306 taken by patients with the particular condition. Such recommendations shall be made  
 307 jointly by the board and the Department of Public Health to the General Assembly no later  
 308 than December 1 of each year."

309

### SECTION 7.

310 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general  
 311 provisions relative to torts, is amended by revising Code Section 51-1-29.6, relating to  
 312 liability of health care institutions and providers regarding THC oil, as follows:

313 "51-1-29.6.

314 (a) As used in this Code section, the term:

315 (1) 'Caregiver' shall have the same meaning as set forth in Code Section 31-2A-18.

316 (2) 'Health care institution' shall have the same meaning as set forth in Code Section  
 317 51-1-29.5.

318 (3) 'Health care provider' means any person licensed, certified, or registered under  
 319 Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43 or Chapter 4 of Title  
 320 26.

321 (4) ~~Low THC oil~~ Medical marijuana shall have the same meaning as set forth in Code  
 322 Section 16-12-190.

323 (b) A health care institution shall not be subject to any civil liability, penalty, licensing  
 324 sanction, or other detrimental action and a health care provider shall not be subject to any  
 325 civil liability, penalty, denial of a right or privilege, disciplinary action by a professional  
 326 licensing board, or other detrimental action for allowing an individual or caregiver to  
 327 possess, administer, or use ~~low THC oil~~ medical marijuana on the premises of a health care  
 328 institution or offices of a health care provider, provided that the possession of such  
 329 substance is in accordance with the laws of this state."

330

**SECTION 8.**

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