

The Senate Committee on Health and Human Services offered the following substitute to SB 609:

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 provide for information to be
4 provided to Medical Cannabis Commission Oversight Committee; to provide that the
5 Georgia Access to Medical Cannabis Commission is subject to open records laws; to require
6 the commission to complete the post-award protest process by a date certain and issue initial
7 Class 1 and Class 2 production licenses; to reevaluate the proposals and establish a queue;
8 to provide for the issuance of additional licenses based on certain increases of patients in the
9 Low THC Oil Patient Registry; to provide for automatic repeal; to provide for related
10 matters; to provide for an effective date; to repeal 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 Section
15 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to Medical
16 Cannabis Commission, as follows:

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 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, inspections, provision
28 of information, plan for accredited lab testing, and patient and physician input, as 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.

35 (b) The commission shall promptly provide any document or information requested by the
36 oversight committee that is in its possession, provided that the commission shall not share
37 ~~documents containing data identifying individual patients or physicians, information~~
38 ~~marked as trade secrets by applicants or licensees, information that in the view of the~~
39 ~~commission would interfere with an ongoing licensing applicant selection process, or~~
40 ~~information that in the judgment of the commission would create law enforcement or~~
41 ~~security risks to the citizens of Georgia~~ any information that would be exempt from public
42 disclosure pursuant to Code Section 50-18-72 or pursuant to state or federal privacy laws.

43 (c) No later than August 1, 2021, the oversight committee shall recommend to the
44 commission a process and plan for providing accredited lab testing of products produced
45 by licensees and for labeling such products. The commission shall consider the
46 recommendations of the oversight committee in adopting policies, procedures, and
47 regulations regarding such testing and labeling.

48 (d) The oversight committee may regularly seek input from patients and physicians as to
49 the availability and quality of products produced pursuant to this chapter, and recommend
50 to the commission changes to policies, procedures, and regulations to improve availability
51 and quality. The commission shall consider such recommendations in adopting policies,
52 procedures, and regulations."

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SECTION 3.

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

56 "16-12-220.

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

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

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SECTION 4.

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

72 "16-12-221.

73 (a) The commission shall grant ~~initial~~ licenses under this part pursuant to contracts
74 awarded through competitive sealed bids or competitive sealed proposals ~~as provided for~~
75 in accordance with state purchasing laws contained in Article 3 of Chapter 5 of Title 50.
76 After issuance of two initial Class 1 production licenses pursuant to Code Section
77 16-12-211 and four initial Class 2 production licenses pursuant to Code Section 16-12-212,
78 and in the event that the commission revokes a Class 1 or Class 2 production license, a
79 Class 1 or 2 production license is surrendered for any reason, or the commission issues an
80 additional Class 1 production license pursuant to Code Section 16-12-214, the commission
81 shall be authorized to issue any replacement Class 1 or Class 2 production licenses in
82 accordance with rules and regulations established by the commission for such purpose.
83 Such rules and regulations shall not otherwise conflict with this article, and to the extent
84 practicable, such rules and regulations shall incorporate provisions and processes similar
85 to Article 3 of Chapter 5 of Title 50.

86 (a.1)(1) By no later than July 1, 2022, the commission shall issue written decisions on
87 all post-award protests submitted pursuant to the request for proposals for initial Class
88 1 and Class 2 production licenses posted on November 23, 2020, and complete a formal
89 review of any written decision requested. Upon such completion, the commission shall
90 issue two initial Class 1 production licenses and four initial Class 2 production licenses
91 to the highest qualified applicants. The commission shall reevaluate the remaining
92 proposals submitted pursuant to such request for proposals and establish a queue of all
93 of the proposals based on scores determined by the commission from highest score to
94 lowest score. Such queue shall be effective until July 1, 2027. The commission shall be

95 authorized to retain third-party consultants or request assistance from the Department of
96 Administrative Services to assist the commission in such reevaluation.

97 (2) After the two initial Class 1 production licenses and four initial Class 2 production
98 licenses are issued pursuant to paragraph (1) of this subsection, the commission shall be
99 authorized to issue one additional Class 1 production license and one additional Class 2
100 production license for every increase of 50,000 patients in the Low THC Oil Patient
101 Registry established and maintained pursuant to Code Section 31-2A-18 based on the
102 order of highest scores in the queue established pursuant to paragraph (1) of this
103 subsection, so long as any applicant still meets all requirements for licensure under this
104 part. On and after July 1, 2027, the commission shall award any additional licenses in
105 the manner provided in subsection (a) of this Code section.

106 (3) This subsection shall stand repealed by operation of law on June 30, 2027.

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

109 (c) No licensee shall subcontract for services for the cultivation or processing in any way
110 of marijuana if the subcontractor, or any of the service providers in the chain of
111 subcontractors, is owned wholly or in excess of 5 percent by any state employee or member
112 of a state employee's immediate family, including, but not limited to, any legislator,
113 state-wide public official, or employee of a designated university. For purposes of this
114 subsection, the term 'immediate family member' means a spouse, child, sibling, or parent
115 or the spouse of a child, sibling, or parent.

116 (d) No licensee shall give or receive anything of value in connection with any contract,
117 memorandum of understanding, or cooperative endeavor agreement executed pursuant to
118 this part except the value that is expressed in the contract, memorandum of understanding,
119 or cooperative endeavor agreement."

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SECTION 5.

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

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SECTION 6.

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