

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/CS/HB 307 — Medical Use of Cannabis

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Criminal Justice Subcommittee; Reps. Gaetz, Brodeur, Edwards, and others (CS/SB 460 by Rules Committee; Senators Bradley, Soto, Sobel, Hutson, and Sachs)

The bill amends s. 381.986, F.S., the compassionate use statute on low-THC cannabis to include medical cannabis prescribed by a qualified physician for eligible patients. “Medical cannabis” is defined in the bill as all parts of any plant in the genus Cannabis that is dispensed only from a dispensing organization for medical use by an eligible patient. A “cannabis delivery device” is also defined in the bill to include any object used to prepare, store, ingest, inhale, or otherwise introduce cannabis into the human body. For purposes of the medical use of medical cannabis, an eligible patient is a person who has a terminal condition, which, without the administration of life-sustaining procedures, will result in death within one year if the condition runs its normal course; and who meets the other conditions in s. 499.0295, F.S., relating to experimental treatments for terminal conditions.

The bill limits where a qualified patient may use low-THC cannabis or medical cannabis and violating any of these restrictions is a misdemeanor of the first degree. A qualified patient is a resident of the state who has been added to the compassionate use registry by a Florida-licensed allopathic or osteopathic physician to receive low-THC cannabis or medical cannabis from a dispensing organization.

Prior to ordering low-THC cannabis or medical cannabis, the bill requires the physician to have treated the patient for at least three months immediately preceding the patient’s registration in the compassionate use registry. The amount ordered for the qualified patient may not exceed a 45-day supply. If a physician is ordering medical cannabis for an eligible patient, the physician must also follow the written informed consent requirements in s. 499.0295, F.S.

The bill provides criminal penalties for a physician who orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition and authorizes disciplinary action under the applicable practice act if a physician orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization.

The regulatory oversight of the compassionate use of low-THC cannabis and medical cannabis is strengthened in the bill, as follows:

- The compassionate use registry also includes the registration of the patient’s legal representative and the Department of Health (DOH) may issue registration cards for patients and their legal representatives.
- The DOH may conduct announced or unannounced inspections, is required to conduct at least a biennial inspection of each dispensing organization, and is authorized to enter into interagency agreements with other state agencies for these inspections or related responsibilities assigned to the DOH.

- Additional criteria is added for the operation and activities of a dispensing organization, including:
 - The growing of low-THC cannabis or medical cannabis, including the use of pesticides, segregation from other plants, and inspection and control of pests;
 - The processing of low-THC cannabis or medical cannabis, including segregation from other plants or products, testing prior to dispensing in addition to validation and auditing by an independent testing laboratory; and compliance with specified packaging and labeling provisions;
 - The dispensing of low-THC cannabis, medical cannabis, or a cannabis delivery device; and
 - Security for all premises, product, and transportation of low-THC cannabis or medical cannabis.
- The DOH is authorized to impose administrative fines for specified violations, in addition to suspending, revoking, or refusing to renew a dispensing organization's approval for those violations.
- The DOH is authorized to adopt rules necessary to implement this section of law.

The bill:

- Reduces the performance bond from \$5 million to \$2 million when a dispensing organization serves at least 1,000 qualified patients.
- Requires the DOH to approve three additional dispensing organizations when 250,000 active qualified patients are registered in the compassionate use registry.
 - At least one of the three applicants must be a recognized class member of specified litigation and a member of the Black Farmers and Agriculturalists Association.
 - Applicants are not required to have a certificate of registration for the cultivation of more than 400,000 plants, be operated by a nurseryman, or have been a nursery for at least 30 years.
- Allows wholesale distributions of low-THC cannabis or medical cannabis between dispensing organizations.

The bill preempts to the state all matters regarding the regulation of the cultivation and processing of low-THC cannabis or medical cannabis. A municipality may determine, by ordinance, the criteria for the number and location of dispensing facilities within its municipal boundaries. Similarly, a county may determine, by ordinance, the criteria for the number and location of dispensing facilities within the unincorporated areas of that county.

The bill exempts qualified patients and their legal representatives from criminal penalties under ch. 893, F.S., as well as from any other section of law, but subject to the requirements in the bill, for the purchase and possession of low-THC cannabis, medical cannabis, and a cannabis delivery device ordered for the patient's medical use.

Independent testing laboratories are also exempted from criminal penalties under ch. 893, F.S., as well as from any other section of law, but subject to the requirements in the bill, for

possessing, testing, transporting, and lawfully disposing of low-THC cannabis or medical cannabis as provided by the DOH rules.

The bill exempts approved dispensing organizations, as well as their owners, managers, and employees from criminal penalties under ch. 893, F.S.; from licensure and regulation under the Florida Pharmacy Act or the Florida Drug and Cosmetic Act; and from any other section of law, but subject to the requirements in the bill, for manufacturing, possessing, selling, delivering, distributing, dispensing, and lawfully disposing of low-THC cannabis, medical cannabis, or a cannabis delivery device.

The bill preserves the status, and authorizes each of the five initially-approved dispensing organizations to operate as a dispensing organization if it has posted the \$5 million performance bond, meets the requirements of and requests cultivation authorization, and has expended at least \$100,000 to fulfill its obligation as a dispensing organization. In addition, any applicant that received the highest aggregate score in the evaluation process, notwithstanding any prior determination by the DOH, is approved to operate as a dispensing organization upon posting the performance bond and complying with applicable rules.

Any other organization that receives a final determination from the Division of Administrative Hearings, the DOH, or a court of competent jurisdiction that it was entitled to be a dispensing organization is authorized to operate as a dispensing organization along with one of the five initially-approved dispensing organizations in the same region.

The bill provides that these approvals do not apply to the three new dispensing organizations authorized for approval when the compassionate use registry attains 250,000 active qualified patient registrations.

A college or university that has a college of agriculture is authorized to conduct cannabis research consistent with state and federal law.

The bill recognizes medical cannabis that is manufactured and sold by a dispensing organization as an investigational drug under the Right to Try Act, s. 499.0295, F.S., which authorizes experimental treatments for terminal conditions.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 28-11; House 99-16