

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1134

INTRODUCER: Senator Rouson and others

SUBJECT: Medical Marijuana Treatment Center Licensure

DATE: January 12, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Pre-meeting</b>
2.			AP	
3.			RC	

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**I. Summary:**

SB 1334 eliminates the requirement that the applicant for the one Medical Marijuana Treatment Center (MMTC) license designated to be issued to a recognized class member of *Pigford v. Glickman*<sup>1</sup> or *In Re Black Farmers Litig.*,<sup>2</sup> and that is a member of the Black Farmers and Agriculturalists Association-Florida Chapter (BFAA-FC) be a member of the BFAA-FC. The bill also strikes an obsolete date by which the license was to be issued.

The effective date of the bill is July 1, 2018.

**II. Present Situation:**

On November 4, 2016, Amendment 2 was voted into law and established Article X, section 29 of the State Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

- Qualifying patients medically using marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and
- MMTCs, their agents, and employees for actions or conduct under the amendment and in compliance with DOH rules.

**Medical Marijuana Treatment Centers**

Implementing Amendment 2, the Legislature passed Ch. 2017-232, L.O.F., during the 2017 Special Session A. Included in the many provisions of the law, the law requires the Department of Health (DOH) to license a number of MMTCs including:

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<sup>1</sup> 185 F.R.D. 82 (D.D.C. 1999).

<sup>2</sup> 856 F. Supp. 2d 1 (D.D.C. 2011).

- All previously licensed Dispensing Organizations that were licensed under the Compassionate Medical Cannabis Act.<sup>3</sup>
- Ten additional MMTCs, as follows:
  - By August 1, 2017, any denied dispensing organization applicant whose application was scored by DOH and had one or more administrative or legal challenges pending as of January 1, 2017, or had a final ranking within one point of the highest final ranking applicant in its region, and proves to the DOH that it has the infrastructure and ability to begin cultivating marijuana within 30 days after registration as an MMTC;
  - By October 3, 2017, one license to an applicant that is a recognized class member of *Pigford v. Glickman* or *In Re Black Farmers Litig.*, and that is a member of the BFAA-FC; and
  - By October 3, 2017, all remaining of the ten licenses.
- Four additional licenses each time the medical marijuana use registry reaches 100,000 patients.<sup>4</sup>

On September 22, 2017, Columbus Smith (Smith) filed a lawsuit challenging the requirement that a Recognized Class Member License applicant be a member of the BFAA-FC. Smith is a recognized class member of *Pigford v. Glickman*, or *In Re Black Farmers Litig.*, but is not a member of the Florida Black Farmers and Agriculturalists Association. According to Smith he was denied membership in the BFAA-FC. Smith also sought an injunction to enjoin DOH from awarding a Recognized Class Member License which the court granted on January 9, 2018, preventing the DOH from issuing the Recognized Class Member License. DOH has delayed issuing any of the additional MMTC licenses that it was required to grant by October 3, 2017, due to this lawsuit.<sup>5, 6</sup>

### III. Effect of Proposed Changes:

Current s. 381.986, F.S., requires that one Medical Marijuana Treatment Center (MMTC) license be issued to an applicant that is a recognized class member of *Pigford v. Glickman* or *In Re Black Farmers Litig.*, and that is a member of the BFAA-FC. SB 1334 amends s. 381.986, F.S., to eliminate the requirement that the applicant for this license be a member of the BFAA-FC. The bill also strikes the obsolete date of October 3, 2017, by which this license was to be issued.

The bill establishes an effective date of July 1, 2018.

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<sup>3</sup> The Compassionate Medical Cannabis Act (Act) was the precursor to the full-strength medical marijuana program established by Amendment 2 and ch. 2017-232, L.O.F. The Act allowed the use of low-THC cannabis to treat cancer and epilepsy disorders and the use of full-strength medical cannabis for the treatment of terminal patients. The Act required the DOH to license five dispensing organizations to grow, process, and dispense low-THC and medical cannabis and three additional dispensing organizations upon the registration of 250,000 active qualified patients in the compassionate use registry. The Act required one of the three additional dispensing organizations to be owned and operated by a recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011), and a member of the Black Farmers and Agriculturalists Association. See 381.986(5)(c), F.S. (2016).

<sup>4</sup> Section 381.986(8)(a), F.S.

<sup>5</sup> *Smith v. Florida Department of Health*, case number 17-CA-1972, in the Circuit Court for the Second Judicial Circuit of Florida.

<sup>6</sup> Letter from Christian Bax to Chair Dana Young, (September 29, 2017) (on file with the Senate Committee on Health Policy).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

SB 1134 may have an indeterminate positive fiscal impact on an applicant for licensure as an MMTC that is a recognized class member of *Pigford v. Glickman* or *In Re Black Farmers Litig.*, but that is not a member of the BFAA-FC if the applicant is chosen to receive a license to operate as an MMTC.

The bill may have an indeterminate negative fiscal impact on an applicant for licensure as an MMTC that is a recognized class member of *Pigford v. Glickman* or *In Re Black Farmers Litig.*, and that is a member of the BFAA-FC if such applicant would have been chosen to receive the Recognized Class Member License to operate as an MMTC under current law but is not chosen to receive such license due to changes made by the bill.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.986 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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