SB236

202163-4

By Senator Melson

RFD: Judiciary

First Read: 04-APR-19
SB236

ENROLLED, An Act,

Relating to cannabidiol (CBD) and medical cannabis; to amend Section 13A-12-214.2, Code of Alabama 1975; to establish a Medical Cannabis Study Commission and provide for its membership and duties; and to extend Carly's Law.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) There is established the Medical Cannabis Study Commission comprised of the following members:

(1) Three members appointed by the Governor, one of whom is a physician licensed to practice medicine in this state with a practice that involves pain management or certified in the specialty of neurology; and one of whom is a licensed pharmacist.

(2) Two members appointed by the Lieutenant Governor, one of whom is a physician licensed to practice medicine in this state with a practice that involves palliative care; and one of whom is a physician licensed to practice medicine in this state certified in the specialty of pediatric neurology.

(3) Two members appointed by the President Pro Tempore of the Senate, one of whom is a physician licensed to practice medicine in this state certified in the specialty of
oncology; and one of whom has experience in multiple crop
development and agricultural practices.

(4) Two members appointed by the Speaker of the
House of Representatives, one of whom has a background and
experience in mental health or substance abuse counselling and
treatment; and one of whom has professional experience in
agricultural systems management.

(5) Three members appointed by the Attorney General,
one of whom is a district attorney; one of whom is an attorney
specializing in criminal defense; and one of whom is an
attorney specializing in employment law.

(6) The State Health Officer or his or her designee.

(7) The Director of the Department of Forensic
Sciences or his or her designee.

(8) One member appointed by the Executive Director
of the Drug Education Council.

(b) Members must be at least 30 years of age,
citizens of the United States, and residents of this state for
at least five continuous years immediately preceding their
appointment. The appointing officers shall coordinate their
appointments so that diversity of gender, race, and
geographical areas is reflective of the makeup of this state.

(c) A member may not have any interest, financial or
otherwise, direct or indirect, in any dispensary, cultivator,
processor, or distributor of hemp or marijuana in any state.
(d) The first meeting of the commission shall be called by the President Pro Tempore of the Senate not later than July 15, 2019, and the commission shall meet as soon as practical at a time and place set by the President Pro Tempore. At the first meeting, the commission shall elect a chair and vice-chair. Members may participate by telephone, video conference, or by similar communications equipment so that all individuals participating in the meeting may hear each other at the same time. Participating by such means shall constitute presence in person at a meeting for all purposes. Notice of meetings shall be provided in accordance with the Alabama Open Meetings Act, and telephone or video conference or similar communications equipment shall also allow all members of the public the opportunity to simultaneously listen to or observe such meetings.

(e) Each member who is not a public employee or public official shall be entitled to a per diem for participating in an official meeting or public hearing. Members who are public employees or public officials are entitled to actual travel expenses in accordance with their employers' rules and policies. Per diem and travel expenses for all members who are not public employees or public officials shall be paid from funds appropriated to the Legislative Council, not to exceed a total of fifty thousand dollars ($50,000).
(f) The commission shall do all of the following:

(1) Schedule and hold a minimum of three public hearings to hear from patients and families who may benefit from the use of medical cannabis, from physicians and other health care providers who may be involved in the implementation of medical cannabis use in the state, and from members of the public who have interests or concerns regarding medical cannabis.

(2) Examine federal laws and regulations and other states' laws and legislation, as well as legislation in this state, relating to the medical use of cannabis. The commission shall specifically consider issues relating to patient qualification; the role of physicians in recommending the medical use of cannabis; patient registration; licensing of facilities and providers of medical cannabis services such as cultivation, processing, labelling, transporting, shipping, and dispensing of medical cannabis; testing of medical cannabis to ensure product safety; the role of law enforcement; the role of other state regulatory agencies or boards; current criminal laws relating to possession and use of marijuana; and any other issues relevant to the medical use of cannabis.

(3) Make recommendations to the Legislature relating to the medical use of cannabis in the state.
(g) The commission shall report its findings and draft legislation to the Speaker of the House and the President Pro Tempore by December 1, 2019.

(h) The commission shall be dissolved on the last day of the 2020 Regular Session, unless extended by act of the Legislature.

(i) Upon the request of the chair, the Secretary of the Senate, the Clerk of the House of Representatives, and the Legislative Services Agency shall provide necessary clerical assistance for the work of the commission.

Section 2. Section 13A-12-214.2, Code of Alabama 1975, is amended to read as follows:

"§13A-12-214.2.

"(a) This section shall be known and may be cited as "Carly's Law."

"(b) As used in this section, the following words shall have the following meanings:

"(1) AUTHORIZED BY THE UAB DEPARTMENT. Authorized by the UAB Department means that Cannabidiol (CBD) has been prescribed by a health care practitioner employed by or on behalf of the UAB Department.

"(2) CANNABIDIOL (CBD). [13956-29-1]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof that is essentially free from plant material, and has a THC level of no more than
3 percent. Also known as (synonyms):
2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol;
trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;
(-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
D1(2)-trans-Cannabidiol.

"(3) DEBILITATING EPILEPTIC CONDITION. Epilepsy or other neurological disorder, or the treatment of epilepsy or other neurological disorder that, as diagnosed by a board-certified neurologist under the employment or authority of the UAB Department, produces serious, debilitating, or life-threatening seizures.

"(4) UAB DEPARTMENT. The Department of Neurology at the University of Alabama at Birmingham, its successors, or any subdivisions.

"(c) In a prosecution for the unlawful possession of marijuana under the laws of this state, it is an affirmative and complete defense to the prosecution that the defendant has a debilitating epileptic condition and used or possessed cannabidiol (CBD) pursuant to a prescription authorized by the UAB Department.

"(d) In a prosecution for the unlawful possession of marijuana under the laws of this state, it is an affirmative and complete defense to the prosecution that the defendant possessed cannabidiol (CBD) because he or she is the parent or
caretaker of an individual who has a debilitating epileptic condition and who has a prescription for the possession and use of cannabidiol (CBD) as authorized by the UAB Department, and where the parent or caretaker's possession of the CBD is on behalf of and otherwise for the prescribed person's use only.

"(e) An agency of this state or a political subdivision thereof, including any law enforcement agency, may not initiate proceedings to remove a child from the home of a parent based solely upon the parent's or child's possession or use of cannabidiol (CBD) as authorized by this section.

"(f) A prescription for the possession or use of cannabidiol (CBD) as authorized by this section shall be provided exclusively by the UAB Department for a debilitating epileptic condition. Health care practitioners of the UAB Department shall be the sole authorized source of any prescription for the use of cannabidiol (CBD), and shall be the sole authorized source to use cannabidiol (CBD) in or as a part of the treatment of a person diagnosed with a debilitating epileptic condition. A health care practitioner of the UAB Department shall have the sole authority to determine the use or amount of cannabidiol (CBD), if any, in the treatment of an individual diagnosed with a debilitating epileptic condition.
"(g) The UAB Department and any UAB School of Medicine affiliated pediatric training entity, including any authorized physician, nurse, attendant, or agent thereof, shall not be subject to prosecution for the unlawful possession, use, distribution, or prescription of marijuana under the laws of this state for its activities arising directly out of or directly related to the prescription or use of cannabidiol (CBD) in the treatment of individuals diagnosed with a debilitating epileptic condition.

"(h) The UAB Department will establish a research and development study purposed to determine medical uses and benefits of cannabidiol (CBD) for individuals with debilitating epileptic conditions.

"(i) The UAB Department and any UAB School of Medicine affiliated pediatric training entity, including any authorized physician, nurse, attendant or agent thereof, shall not be subject to prosecution for the unlawful possession, use, or distribution of marijuana under the laws of this state for its activities arising directly out of or directly related to the department's research and development activities in pursuit of medical benefits and uses of cannabidiol (CBD), as long as the prescription, treatment or use of cannabidiol (CBD) is provided only to individuals diagnosed with a debilitating epileptic condition.
"(j) Pursuant to the filing requirements of Rule 15.3 of the Alabama Rules of Criminal Procedure, the defendant shall produce a valid prescription, certification of a debilitating epileptic condition, and the name of the prescribing health care professional authorized by the UAB Department.

"(k) This section is repealed July 1, 2020.

"(l) Nothing in this section shall be construed to allow or accommodate the prescription, testing, medical use, or possession of any other form of Cannabis other than that defined by this section."

Section 3. This act shall not be construed to authorize any individual or caregiver to grow marijuana for his or her medical use, for the medical use of any member of his or her family, or for the medical use of any patient of the caregiver.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB236
Senate 09-MAY-19
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 31-MAY-19

Senate concurred in House amendment 31-MAY-19

By: Senator Melson