SB236
197391-2
By Senator Melson
RFD: Judiciary
First Read: 04-APR-19
SYNOPSIS: Under existing law, unlawful possession of marijuana in the first degree is a Class C or Class D felony, and unlawful possession of marijuana in the second degree is a Class A misdemeanor.

This bill would create the CARE Act.

This bill would exempt from the crime of unlawful possession of marijuana a person with a qualifying condition who has a valid medical cannabis card for the medical use of cannabis.

Carly's Law authorizes the University of Alabama at Birmingham to conduct research on the use of cannabidiol (CBD) in specified circumstances and provides a defense against unlawful possession of marijuana under the research program. The law expires July 1, 2019.

This bill would extend Carly's Law until January 1, 2021.

Leni's Law provides a defense against unlawful possession of marijuana for an individual
in possession of CBD if the person has a debilitating medical condition.

This bill would revise Leni's Law to make conforming changes to the substantive provisions of the law, and repeal the law November 1, 2020.

This bill would authorize residents of this state diagnosed with a qualifying condition and designated caregivers to be registered and obtain a medical cannabis card, thereby authorizing the patient to use cannabis for medical use.

This bill would establish the Alabama Medical Cannabis Commission and provide for its membership.

This bill would require the Medical Cannabis Commission to establish and administer a patient registry system that registers patients with certain qualifying conditions, to issue medical cannabis cards, to issue licenses for the cultivation, processing, transportation, manufacturing, packaging, dispensing, and sale of cannabis, to adopt rules, and to generally regulate, administer, and enforce a medical cannabis program in the state.

This bill would authorize the Department of Agriculture and Industries to inspect licensed facilities under the program.

This bill would impose sales and use taxes.
This bill would establish a Medical Cannabis Fund within the General Fund and provide that all tax proceeds and license fees deposited in the fund that exceed the costs of the Medical Cannabis Commission to administer the program would be deposited in the General Fund.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.
A BILL

TO BE ENTITLED

AN ACT

Relating to the medical use of marijuana; to amend Sections 13A-12-213, 13A-12-214, 3A-12-214.2, and 13A-12-214.3, Code of Alabama 1975, and to add a new Chapter 33 to Title 2, Code of Alabama 1975; to create the CARE Act; to exempt from the crime of unlawful possession or use of marijuana a resident diagnosed with a qualifying condition who has a valid medical cannabis card for the medical use of cannabis; to establish the Alabama Medical Cannabis Commission and provide for its membership and duties; to provide for a patient registry system of qualified patients and designated caregivers and provide for issuance of medical cannabis cards to registrants; to license the cultivation, processing, transportation, manufacturing, packaging, dispensing, and sale of cannabis; to authorize the Department of Agriculture and Industries to inspect licensed facilities; to impose taxes; to create a Medical Cannabis Fund and provide for its proceeds and expenditures; to provide definitions; to extend Carly's Law; to make conforming changes to Leni's Law; to repeal Leni's Law at a later date; to require reporting to the Legislature; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as
Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-12-213, 13A-12-214, 13A-12-214.2, and 13A-12-214.3, Code of Alabama 1975, are amended to read as follows:

"§13A-12-213.

"(a) A person commits the crime of unlawful possession of marihuana marijuana in the first degree if, except as otherwise authorized:

"(1) He or she possesses marihuana marijuana for other than personal use; or

"(2) He or she possesses marihuana marijuana for his or her personal use only after having been previously convicted of unlawful possession of marihuana marijuana in the second degree or unlawful possession of marihuana marijuana for his or her personal use only.

"(b) Commencing on the effective date of the act adding this subsection, a person has not committed the crime of unlawful possession of marijuana if the person is in possession of a valid medical cannabis card issued pursuant to Chapter 33 of Title 2, unless there is reasonable cause to believe that the information contained on the medical cannabis card is false or falsified, the medical cannabis card has been obtained by means of fraud, or the person is otherwise in violation of Chapter 32 of Title 2 or a rule adopted thereto."
Unlawful possession of marijuana in the first degree pursuant to subdivision (1) of subsection (a) is a Class C felony.

Unlawful possession of marijuana in the first degree pursuant to subdivision (2) of subsection (a) is a Class D felony.

§13A-12-214.

(a) A person commits the crime of unlawful possession of marijuana in the second degree if, except as otherwise authorized, he possesses marijuana for his personal use only.

(b) Commencing on the effective date of the act adding this subsection, a person has not committed the crime of unlawful possession of marijuana if the person is in possession of a valid medical cannabis card issued pursuant to Chapter 33 of Title 2, unless there is reasonable cause to believe that the information contained on the medical cannabis card is false or falsified, the medical cannabis card has been obtained by means of fraud, or the person is otherwise in violation of Chapter 33 of Title 2 or a rule adopted thereto.

Unlawful possession of marijuana in the second degree is a Class A misdemeanor.

§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, 2019 January 1, 2021.

"(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.

"§13A-12-214.3.

"(a)(1) This section shall be known and may be cited as Leni's Law.

"(2) For the purposes of this section, the following terms shall have the following meanings:

"a. CANNABIDIOL (CBD). [13956-29-1]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof that is free from plant material, and has a THC level (delta-9-tetrahydrocannabinol) of no more than three percent relative to CBD according to the rules adopted by the Alabama Department of Forensic Sciences. 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 and that is tested by an independent third-party laboratory.

"b. DEBILITATING MEDICAL CONDITION. A chronic or debilitating disease or medical condition including one that produces seizures for which a person is under treatment.

"(3) In addition to the affirmative defense provided in Section 13A-12-214.2, in a prosecution for the unlawful possession of marijuana in the second degree under Section 13A-12-214, it is an affirmative and complete defense that the defendant used or possessed CBD if the defendant satisfies either of the following:

"a. He or she has a debilitating medical condition.
"b. He or she is the parent or legal guardian of a minor who has a debilitating medical condition, and the CBD is being used by the minor.

"(4) 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 or guardian, nor initiate any child protection action or proceedings, based solely upon the parent's or child's possession or use of CBD as allowed by this section.

"(5) Nothing in this section shall be construed to require the various individual or group insurance organizations providing protection, indemnity, or insurance against hospital, medical, or surgical expenses, or health
maintenance organizations to provide payment or reimbursement for prescriptions of CBD.

"(6) 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 in this section.

"(b) The Legislature finds and declares the following:

"(1) This section is intended to authorize only the limited use of nonpsychoactive CBD as defined in this section only for specified debilitating medical conditions that produce seizures, and is not intended as a generalized authorization of medical marijuana.

"(2) It is the intent of the Legislature to maintain existing criminal prohibitions of marijuana, except as expressly provided in existing law or as expressly provided in this section."

Section 2. Chapter 33 commencing with Section 2-33-1, is added to Title 2, Code of Alabama 1975, to read as follows:


§2-33-1.

This chapter shall be known and may be cited as the Compassion, Access, Research, and Expansion Act or CARE Act.

§2-33-2.

As used in this chapter, the following terms have the following meanings:
(1) CANNABIS. All parts of any plant of the genus cannabis, whether growing or not, including the seeds, extractions of any kind from any part of the plant, and every compound, derivative, mixture, product, or preparation of the plant.

(2) CAREGIVER. A resident of this state who meets the requirements of subsection (c) Section 2-33-5 and has agreed to assist with the medical use of cannabis of another individual with, or by applying for, a medical cannabis card.

(3) COMMISSION. The Alabama Medical Cannabis Commission created pursuant to Section 2-33-7.

(4) DISPENSARY. A licensed, enclosed, secure building that may include attached storage units, where cannabis and related supplies are maintained, stored, and sold to patients and caregivers, which is not physically connected to a cannabis cultivation, processing, or manufacturing facility.

(5) MEDICAL CANNABIS CARD. A valid card issued pursuant to this chapter or a valid card from another state that has legalized the use of medical cannabis.

(6) MEDICAL USE. The acquisition, possession, use, delivery, transfer, or administration of cannabis authorized by this chapter. The term does not include possession, use, or administration of cannabis that was not purchased or acquired from a licensed dispensary.
(7) PATIENT REGISTRY. A documented, electronic, and integrated medical cannabis card system for patient registration.

(8) QUALIFIED HEALTH CARE PROVIDER. A health care provider who meets the qualifications of subsection (c) of Section 2-33-20.

(9) QUALIFIED PATIENT. A resident of this state who has been diagnosed with a qualifying condition, and who has met the requirements to obtain a medical cannabis card.

(10) QUALIFYING CONDITION. Any of the following conditions diagnosed by a health care provider, including a licensed physician, physician assistant, or certified nurse practitioner:

   a. Addiction.
   c. Amyotrophic lateral sclerosis.
   d. Anxiety.
   e. Autism.
   f. Cancer.
   g. Cerebral palsy.
   h. Chemo-associated nausea, vomiting, and anorexia.
   i. Chronic pain.
   j. Crohn's disease.
   k. Cystic fibrosis.
   l. Depression.
   m. Glaucoma.
   n. Epilepsy/seizures.
(11) TERMINAL CONDITION. A progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible without the administration of life-sustaining procedures, and is expected to result in death within six months after diagnosis if the condition runs its normal course.
§2-33-3.

(a) The Alabama Medical Cannabis Commission shall implement this chapter by making medical grade cannabis available to qualified patients.

(b) The commission shall administer and enforce this chapter and all rules adopted pursuant to this chapter.

(c) This chapter supersedes state criminal and civil laws pertaining to the acquisition, possession, use, cultivation, manufacturing, processing, research and development, and sale of medical cannabis. The acquisition, possession, use, cultivation, manufacturing, processing, research and development, or sale of medical cannabis in compliance with this chapter, and as approved by the commission, does not constitute a violation of Article 5 of Chapter 12 of Title 13A, or any other law to the contrary.

§2-33-4.

All data related to the implementation of this chapter, including, but not limited to, application forms, licensing information, registration of medical cannabis card holders and caregivers, compliance, and the status of cannabis research programs must be maintained in a secure system developed or procured by the commission. Data may not be sold, and patient information shall remain confidential and not be transferred or sold.

§2-33-5.

(a) An individual may not acquire, possess, or use a medical cannabis product without a valid medical cannabis card
issued pursuant to this chapter, except as provided in subsection (d). A medical cannabis card may only be issued to a qualified patient or designated caregiver.

(b) A qualified patient must be 19 years of age or older; a resident of this state; and be diagnosed with a qualifying condition by a qualified health care provider. If a qualified patient is under 19 years of age, only a caregiver may purchase or administer cannabis to the qualified patient.

(c) A designated caregiver must be 19 years of age or older, a resident of this state, have no ownership interest in or contract or employment relationship with a licensed dispensary, and either be designated by a qualified patient as the caregiver or be the parent or legal guardian of a minor diagnosed with a qualifying condition. A designated caregiver may lawfully acquire and possess cannabis, but not use cannabis under this chapter without the caregiver actually being diagnosed with a qualifying condition and issued a medical cannabis card as a qualified patient.

(d) This state shall recognize and give reciprocity to medical cannabis cards issued in other states. A cardholder from another state is allowed temporary access to dispensaries in this state under the conditions authorized by the commission in accordance with rules adopted pursuant to the Alabama Administrative Procedure Act.

§2-33-6.

This chapter does not do any of the following:
(1) Require an insurer, organization for managed care, health benefit plan, or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of cannabis.

(2) Require any employer to allow the medical use of cannabis in the workplace or to modify the job or working conditions of an individual who engages in the medical use of cannabis that are based upon the reasonable business purposes of the employer.

(3) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

§2-33-7.

(a) There is created the Alabama Medical Cannabis Commission, comprised of nine members. All members shall have experience in health, agriculture, or business. Members of the commission shall be as follows, with initial members appointed not later than August 30, 2019:

(1) Three members appointed by the Governor, one of whom is a physician licensed to practice medicine in this state, certified in the specialty of neurology; one of whom is a physician licensed to practice medicine in this state with a practice that involves pain management; and one of whom has professional experience in industrial systems or business. The initial terms shall be four, three, and two years, respectively.
(2) Three 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; one of whom is a general physician licensed to practice medicine in this state and practices in a rural, underserved community; and one of whom has experience in multiple crop development and agricultural practices. The initial terms shall be one, four, and three years, respectively.

(3) Three members appointed by the Speaker of the House of Representatives, one of whom is a physician licensed to practice medicine in this state, certified in the specialty of psychiatry; one of whom has a background and experience in mental health or substance abuse; and one of whom has professional experience in agricultural systems management. Initial terms shall be two, one, and four years, respectively.

(b) A member may not have any interest, financial or otherwise, either direct or indirect, in any dispensary, cultivation, or manufacturer licensed as such in this state. Any current public official, candidate for public office, current public employee, or registered lobbyist may not serve as a member.

(c) 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.

(d) After initial appointments, each member shall serve a term of four years, but may be reappointed for one additional term. If at any time there is a vacancy, a successor member shall be appointed by the respective appointing officer to serve for the remainder of the term. Members may be removed for cause by the Governor.

(e) The commission shall elect from the membership one member to serve as chair and one member to serve as vice-chair.

(f) While serving on business of the commission, members shall be entitled to a per diem of three hundred dollars ($300) per day, as well as actual travel expenses incurred in the performance of duties as a member, as other state employees are paid, when approved by the chair.

(g) Except as provided in subsection (h), the commission shall meet each month and hold such other meetings for any period of time as may be necessary for the commission to transact and perform its official duties and functions. A majority of members of the commission constitutes a quorum for the transaction of any business, or in the performance of any duty, power, or function of the commission, and the concurrence of a majority of those present and voting in any matter within its duties is required for a determination of matters within its jurisdiction. The commission may hold a special meeting at any time it deems necessary and advisable.
in the performance of its official duties. A special meeting may be called by the chair, or upon the written request of two or more members. All members shall be duly notified by the commission secretary of the time and place of any regular or special meeting at least five days in advance of any meeting. The chair is responsible for setting and keeping a meeting schedule that ensures the commission meets the requirements of this chapter. Members may not miss more than three meetings in one calendar year.

(h)(1) The commission shall hold a minimum of two regularly scheduled meetings each month in the first 12 months commencing no later than November 1, 2019, in order to do all of the following:

a. Expeditiously create and publish an application form for medical cannabis cards.

b. Establish a website for public access and information.

c. Review, approve, or deny fast track license applications.

d. Adopt rules in accordance with the Alabama Administrative Procedure Act.

(2) After adopting initial rules, issuing the fast track licenses, and publishing the patient medical cannabis card application forms and procedures, the commission may reduce meetings to one per month or vote on a schedule appropriate for meeting all obligations under this chapter regarding patient medical cannabis cards.
The commission may appoint a director to serve at the pleasure of the commission. The director's salary shall be fixed by the commission. The director shall be at least 30 years of age and have been a citizen and resident of this state for at least five years prior to appointment. The director shall be licensed to practice law in this state. The director is the chief administrative officer of the commission, and all personnel employed by the commission shall be under the director's direct supervision. The director is solely responsible to the commission for the administration and enforcement of this chapter and is responsible for the performance of all duties and functions delegated by the commission.

The director shall maintain all records of the commission and also serve as secretary of the commission. The director shall prepare and keep the minutes of all meetings held by the commission, including a record of all business transacted and decisions rendered by the commission. A copy of the record of the minutes and business transacted and decisions rendered shall be kept on file at the department and shall be available for public inspection.

The director shall act and serve as hearing officer when designated by the commission and shall perform such duties as the regular hearing officer.

The commission may appoint an assistant director who shall perform such duties and functions which may be assigned by the director or the commission. The assistant
director, if licensed to practice law in this state, may also be designated by the commission to sit, act, and serve as a hearing officer, and when designated as a hearing officer, the assistant director may perform the same duties and functions as the regular hearing officer.

(k) In any action or suit brought against the members of the commission in their official capacity in a court of competent jurisdiction, to review any decision or order issued by the commission, service of process issued against the commission may be lawfully served or accepted by the director on behalf of the commission as though the members of the commission were personally served with process.

(l) The commission, in consultation with the Department of Agriculture and Industries, shall appoint a chief inspection and enforcement officer who meets all of the following qualifications and requirements:

(1) Be under the immediate supervision of the director.

(2) Be at least 30 years of age.

(3) Has been a citizen and resident of this state for at least five years prior to appointment.

(4) Has experience and training in agricultural inspections.

(m) The chief inspection and enforcement officer shall be reimbursed for travel expenses in a manner similar to state employees.
(n) The director, assistant director, and chief inspection and enforcement officer shall be reimbursed for actual travel expenses as other state employees are paid, when approved by the chair. The director, chief inspection and enforcement officer, and all other inspection and enforcement personnel shall be employed on a full-time basis only.

(o) The commission shall retain legal counsel familiar with the requirements of this chapter and medical cannabis licensing and best practices in other states in order to assist the commission and staff with establishing a functional program and achieving compliance with applicable laws.

§2-33-8.

(a) A member of the commission and any individual employed by the commission may not have any interest, financial or otherwise, either direct or indirect, in any dispensary, cultivator, or manufacturer licensed under this chapter. In addition, a member or employee of the commission may not have any family member who is employed by any dispensary, cultivator, or manufacturer or who holds any cannabis license in this state. A member or employee of the commission or his or her family member may not have an interest of any kind in any building, fixture, or premises occupied by any person licensed under this chapter; and may not own any stock or have any interest of any kind, direct or indirect, pecuniary or otherwise, by a loan, mortgage, gift,
or guarantee of payment of a loan, in any dispensary, cultivator, or manufacturer licensed under this chapter.

(b) A member or employee of the commission may not accept any gift, favor, merchandise, donation, contribution, or any article or thing of value, from any person licensed under this chapter.

(c) An individual may not conspire with any other individual to violate this section or attempt to violate this section.

(d) Any individual violating this section shall be terminated from employment or position, and as a consequence, the individual shall forfeit any pay or compensation which might be due.

(e) For purposes of this section, family member includes a spouse, child, parent, or sibling, by blood or marriage.

(f) A violation of this section is a Class C misdemeanor.

Article 2. Medical Cannabis Patient Registry and Medical Cannabis Cards.

§2-33-20.

(a) In order to obtain a medical cannabis card, the diagnosis of a qualifying condition must be made by one of the following health care providers who is in compliance with the education requirements of subsection (c):

(1) A physician licensed to practice medicine in this state.
(2) A physician assistant licensed in this state.

(3) A certified nurse practitioner licensed in this state.

(b) The diagnosis must be in writing and clearly stated in the patient's medical records or in a written document signed and dated by the health care provider confirming that the patient has been diagnosed with a qualifying condition.

(c) Before being approved as a qualified health care provider, and before each license renewal, a health care provider must successfully complete a two-hour course and subsequent examination that encompass the requirements of this chapter and any rules adopted pursuant to this chapter. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The commission may contract with a third party or the Board of Medical Examiners to administer this section, provided the commission approves any course material and examination. The price of the course may not exceed five hundred dollars ($500).

§2-33-21.

(a) In order to commence, use, and maintain a reliable patient registry system, by no later than July 31, 2020, the commission shall do all of the following:
(1) Establish and administer an integrated, electronic patient registry system that does all of the following:

a. Includes in the registry database for each qualified patient registrant the names of the qualified patient and the patient's designated caregiver, if applicable, the name of the qualified health care provider, the diagnosed qualifying condition or conditions, and the type and quantity of cannabis product the patient is using, if known.

b. Provides a procedure for keeping the information on a qualified patient up-to-date.

c. Tracks the medical cannabis card application process through issuance or denial.

d. Tracks medical cannabis cards that are denied, issued, revoked, suspended, or reinstated.

e. Provides access as further provided in subsection (b).

(2) Adopt rules pursuant to the Alabama Administrative Procedure Act that include criteria by which medical cannabis cards may be revoked, suspended, and reissued. The rules may not prohibit the issuance or use of a medical cannabis card based on an arrest for any felony or misdemeanor, unless the arrest is for a violation of this chapter. In the event a medical cannabis card is revoked by the commission, the most recently paid registration fee shall be refunded to the cardholder.
(3) Begin issuing medical cannabis card requests that meet the requirements of this chapter.

(b) The patient registry system shall be accessible to the following:

(1) Law enforcement agencies in order to verify that an individual in possession of a medical cannabis card is lawfully in possession of the card and to avoid counterfeiting of cards.

(2) Health care practitioners licensed to prescribe prescription drugs in order to ensure proper care for patients before medications are prescribed that may interact with medical cannabis.

(3) Licensed dispensaries in order to verify that an individual in possession of a medical cannabis card is lawfully in possession of the card.

(c) No later than July 31, 2020, the commission shall ensure that a process is available, as part of the patient registry system, for qualified health care providers to electronically report a diagnosis of a qualifying condition, report any change in the status of a qualifying condition, or report the termination of a relationship between a qualified health care provider and a qualified patient.

(d) A medical cannabis cardholder must be locatable in the registry system with adequate identifying information.

§2-33-22.

(a) The commission shall develop an application form to be completed by qualified patients and designated
caregivers in order to be placed on the patient registry and
issued a medical cannabis card. The application form shall be
no longer than two pages in length and must be signed with an
affirmation of both of the following:

(1) That the information provided is true and
correct to the best of the applicant's knowledge, and that
submitting false information constitutes perjury in the second
degree under Section 13A-10-102.

(2) False statements may result in criminal
penalties, denial, revocation, or suspension of the medical
cannabis card.

(b) In addition to the form, an application shall
include all of the following:

(1) Proof that the applicant is 19 years of age or
older and a resident of this state by means of state-issued
photo identification.

(2) For an applicant who is a qualified patient,
either of the following:

a. A written document signed and dated by a
qualified health care provider confirming that the patient has
been diagnosed with a qualifying condition.

b. The patient's medical records from a qualified
health care provider confirming that the patient has been
diagnosed with a qualifying condition; provided, that the
records must be reviewed and accepted by the commission as
adequate proof that the patient requesting the card has been
so diagnosed.
(3) For an applicant who is a designated caregiver, both of the following:

a. Proof that the caregiver meets the qualifications in subsection (c) of Section 2-33-5.

b. The names of each qualified patient for whom the caregiver provides care, including a confirmation of the caregiver relationship in writing from each qualified patient, unless the caregiver is the legal guardian of a minor.

(4) A full-face, passport-type, color photograph taken within 90 days immediately preceding registration.

(5) An application fee of sixty-five dollars ($65), or other amount as determined by the commission.

(6) Any other information deemed relevant by the commission.

(c) Medical cannabis cards shall be resistant to counterfeiting and tampering and, at a minimum, shall include all of the following:

(1) The name, address, and date of birth of the qualified patient or caregiver, as applicable.

(2) A photograph of the qualified patient or caregiver, as applicable.

(3) Identification of the cardholder as a qualified patient or a caregiver.

(4) The expiration date of the card.

(d) A medical cannabis card expires two years from the date of issuance.
(e) Medical cannabis cards may be renewed in accordance with rules adopted by the commission and upon payment of a renewal fee of sixty-five dollars ($65), or other amount as determined by the commission.

(f) The commission, through a procedure developed by rule, shall notify the qualified health care provider named in the patient registry by a qualified patient, that the qualified patient has been issued a medical cannabis card.

(g) The commission may suspend or revoke a medical cannabis card if the cardholder does any of the following:

1. Provides misleading, incorrect, false, or fraudulent information to the commission.
2. Falsifies, alters, or otherwise modifies a medical cannabis card.
3. Fails to timely notify the department of any changes to his or her qualified patient status.
4. Violates the requirements of this chapter or any rule adopted under this chapter.

§2-33-23.

(a) When a qualified patient has a designated caregiver, only the designated caregiver is authorized to purchase cannabis; a patient with a designated caregiver may not purchase cannabis.

(b) A caregiver may receive compensation from the qualified patient or other entity for any services provided to the qualified patient.
(c) A caregiver may not provide care to more than 10 qualified patients at any given time.

Article 3. Cultivation, Processing, and Dispensing of Medical Cannabis.

§2-33-40.

(a) All of the cultivation, processing, transportation, packaging, and dispensing and selling of any form or derivative of medical cannabis is subject to licensing and regulation under this article.

(b) The commission shall consult with the Department of Agriculture and Industries when adopting rules relating to the cultivation and processing of cannabis, and the department shall provide assistance and advice to the commission as needed. The commission shall bear the administrative costs incurred by the department pursuant to this subsection.

§2-33-41.

This state hereby preemptively regulates medical cannabis from seed to sale to use and shall reasonably regulate and control all aspects of the medical cannabis industry to meet the stated intent of this chapter. Any county or municipality seeking to ban the cultivation, processing, manufacture, or sale of medical cannabis within its jurisdiction is authorized to do so by a two-thirds vote of the local governing body; provided, that the vote occurs no later than July 31, 2020.

§2-33-42.
In order to facilitate an initial level of medical grade cannabis product availability and avoid a program delay dependent on rulemaking, the commission may review and issue approved provisional fast track licenses for the cultivation, processing, transportation, manufacturing, packaging, and dispensing and selling of medical cannabis, in an expedited manner, before the commission has adopted a final regulatory program as provided in Section 2-33-43. Any fast track licenses issued by the commission shall be done in a manner that provides access to medical cannabis throughout rural and urban populations, taking into account the racial and economic makeup of the state. A provisional fast track license shall not be finally approved or denied until an on-site inspection of all facilities operated by the fast track licensee has been conducted.

(b) The commission shall issue a final approval or denial of a fast track license not later than January 1, 2021, after all rulemaking is completed.

§2-33-43.

(a) Not later than January 1, 2021, the commission shall adopt rules that provide for all of the following:

(1) Determining the various types of licenses and the activities and functions that may be conducted by a licensee and the area of operation of a licensee.

(2) Qualifications and requirements for licensees, as further provided in subsection (b).
(3) The number of licenses the commission will issue and locations of facilities, based on market demand for stand-alone dispensaries, stand-alone cultivation, and stand-alone processing or manufacturing facilities, and for similar vertically integrated operations, and taking into account the racial and economic makeup of the state, the unemployment rate, the need for agricultural and other business opportunities in communities, access to health care, infrastructure, and other factors the commission deems relevant in providing the greatest benefits to the residents of this state.

(4) The on-site inspection process to be conducted at each facility of an applicant prior to being issued a license, as well as ongoing on-site inspections of the facilities of a licensee.

(5) Standards and procedures for the revocation, suspension, and nonrenewal of licenses.

(6) Standards and procedures for the renewal of licenses, which shall include, but not be limited to, payment of a renewal fee and an additional criminal background check.

(7) Standards and procedures for the transfer of licenses. Any transfer of a license or change of ownership shall comply with the requirements of a new licensee, including approval by the commission and payment of the license application fee.

(8) Measures or standards to ensure any cannabis product remains secure at all times, including, but not
limited to, requirements that licensed facilities remain securely enclosed and locked as appropriate.

(9) Any other measures necessary to protect health, safety, and welfare.

(b) When applying for a license under this article, an applicant shall submit the following information to the commission:

(1) Proof of residence. The applicant's majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of no less than five years preceding the application date.

(2) A detailed business and operations plan that includes, at a minimum, all of the following:

a. Identification of each individual with a financial interest in the applicant.

b. Identification of each business entity with a financial interest in the applicant.

c. A proposed location with street address, which may not be within a 1,000 foot radius of any pre-kindergarten, elementary, or secondary school.

d. A full list of activities such as cultivation, processing, packaging, transporting, or dispensing and selling, to be undertaken by the applicant.

e. A summary of projected tenant improvements, production schedule, products, production capacity, standard operating procedures, target customer base, and projected open date.
f. Identification of all corporate officers and summaries of the business experience for each individual expected to be responsible for facility operations.

(3) Payment of an application fee. The commission may alter the fee based on the geographical area or other factors the commission deems relevant in making sure that licensees are representative of the racial and economic makeup of this state.

(4) A criminal background check. All owners, officers, board members, and managers of the applicant, shall pass a Federal Bureau of Investigation level 2 background screening process, which shall be documented on the application materials prior to final review and approval.

(5) An attestation statement and signature from a responsible corporate officer of an applicant affirming that the contents of any application are true and correct under penalty of perjury to the best of the officer's personal knowledge.

(6) Any other information the commission deems appropriate.

(c) When determining whether to issue or deny a license under this section, the commission shall consider the applicant's business plan as it relates to all of the following:

(1) The applicant's ability to capitalize and conduct operations as proposed in its business plan, including
business experience in related fields such as agriculture, real estate, development, manufacturing, or retail sales.

(2) The applicant's history of business activities as it applies to the entity and the individuals who are the entity's owners, officers, and managers.

(3) The proposed location of all operations as being suitable for all activities, not inconsistent with applicable zoning, and the applicant's ability to serve an identifiable geographic area.

§2-33-44.
(a) A licensed dispensary shall be required by the commission to inspect a medical cannabis card before dispensing any cannabis product.

(b) The commission, by rule, shall establish standards to ensure that cannabis is only dispensed to individuals holding a valid medical cannabis card. The rules shall include, but not be limited to, procedures for the dispensary to confirm a certain percentage of cardholders are properly registered in the patient registry.

§2-33-45.
The commission shall procure and use a secure, online system for seed-to-sale tracking of all medical cannabis in the state in order to ensure that medical cannabis may not be produced from, obtained from, sold to, or transferred to any location outside of this state.

§2-33-46.
The commission shall provide annual written reports, with the first due no later than July 31, 2020, tracking implementation of this chapter. The report shall be made publicly available and posted on the commission's website. The report must include all of the following:

1. The number of patients applying for and receiving medical cannabis cards.
2. The qualifying conditions identified to obtain the medical cannabis cards.
3. Comments from health care providers and pharmacists.
4. Revenues and expenses of card issuance and business licensing.
5. Relevant developments in other states' cannabis laws.
6. Relevant scientific research.
7. Applicable tax revenue.
8. The commission's operating budget.
9. Any other information available to the commission that would inform public officials of how this chapter affects the public.

§2-33-47.

The commission, by rule, shall establish protocols for product testing, which shall be conducted during cultivation, processing, and dispensing to ensure that all dispensed medical cannabis is consistently medical grade. The
protocols for testing shall include the following, as well as a determination of corresponding tolerance limits:

(1) Cannabinoids.

(2) Heavy metals.

(3) Microbials.

(4) Mycotoxins.

(5) Residual pesticides.

(6) Residual solvents.

§2-33-48.

(a) A county or municipality may tax the sale of medical cannabis in accordance with Article 1 of Chapter 23 of Title 40; provided, that the tax may not exceed 2.1 percent of the gross proceeds of the sales.

(b) For the exercise of the privilege of engaging in the business of selling medical cannabis in this state, a tax is levied on the gross proceeds of the sales of medical cannabis when sold at retail in this state at the rate of nine percent of the gross proceeds of the sales.

(c) All persons, except for rural licensees, doing business in this state shall pay to the Commissioner of Revenue, annually, a privilege tax, in addition to all other taxes, equal to 10 percent of the net worth for the previous fiscal year for business done in this state during that fiscal year.

§2-33-49.

(a) There is created a special account in the State Treasury to be known as the Medical Cannabis Fund. All tax
proceeds collected pursuant to Section 2-33-48 must be
transmitted to the state Comptroller, who shall deposit the
same in the Medical Cannabis Fund. Expenditures from the
Medical Cannabis Fund may be made only upon appropriation by
the Legislature to implement and administer this chapter.
Specifically, the Medical Cannabis Fund includes all of the
following:

   (1) Fees collected by the commission.

   (2) Tax proceeds collected pursuant to subsections
       (b) and (c) of Section 2-33-48.

   (3) Any moneys appropriated to the fund by the
       Legislature for the initial operation of the commission.

   (b) Upon a determination by the Legislature that the
       commission has established sufficient revenues for the
       administration of this chapter, the Legislature shall direct
       the state Comptroller to transfer any excess balance that is
       in the Medical Cannabis Fund to the General Fund.

Section 3. Although this bill would have as its
purpose or effect the requirement of a new or increased
expenditure of local funds, the bill is excluded from further
requirements and application under Amendment 621, now
appearing as Section 111.05 of the Official Recompilation of
the Constitution of Alabama of 1901, as amended, because the
bill defines a new crime or amends the definition of an
existing crime.
Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.