

1 SB236
2 197391-2
3 By Senator Melson
4 RFD: Judiciary
5 First Read: 04-APR-19

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8 SYNOPSIS: Under existing law, unlawful possession of
9 marijuana in the first degree is a Class C or Class
10 D felony, and unlawful possession of marijuana in
11 the second degree is a Class A misdemeanor.

12 This bill would create the CARE Act.

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

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

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

25 Leni's Law provides a defense against
26 unlawful possession of marijuana for an individual

1 in possession of CBD if the person has a
2 debilitating medical condition.

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

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

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

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

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

27 This bill would impose sales and use taxes.

1 This bill would establish a Medical Cannabis
2 Fund within the General Fund and provide that all
3 tax proceeds and license fees deposited in the fund
4 that exceed the costs of the Medical Cannabis
5 Commission to administer the program would be
6 deposited in the General Fund.

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

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

1 A BILL
2 TO BE ENTITLED
3 AN ACT

4
5 Relating to the medical use of marijuana; to amend
6 Sections 13A-12-213, 13A-12-214, 3A-12-214.2, and
7 13A-12-214.3, Code of Alabama 1975, and to add a new Chapter
8 33 to Title 2, Code of Alabama 1975; to create the CARE Act;
9 to exempt from the crime of unlawful possession or use of
10 marijuana a resident diagnosed with a qualifying condition who
11 has a valid medical cannabis card for the medical use of
12 cannabis; to establish the Alabama Medical Cannabis Commission
13 and provide for its membership and duties; to provide for a
14 patient registry system of qualified patients and designated
15 caregivers and provide for issuance of medical cannabis cards
16 to registrants; to license the cultivation, processing,
17 transportation, manufacturing, packaging, dispensing, and sale
18 of cannabis; to authorize the Department of Agriculture and
19 Industries to inspect licensed facilities; to impose taxes; to
20 create a Medical Cannabis Fund and provide for its proceeds
21 and expenditures; to provide definitions; to extend Carly's
22 Law; to make conforming changes to Leni's Law; to repeal
23 Leni's Law at a later date; to require reporting to the
24 Legislature; and in connection therewith would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds within the meaning of Amendment 621
27 of the Constitution of Alabama of 1901, now appearing as

1 Section 111.05 of the Official ReCompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 13A-12-213, 13A-12-214,
5 13A-12-214.2, and 13A-12-214.3, Code of Alabama 1975, are
6 amended to read as follows:

7 "§13A-12-213.

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

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

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

18 "(b) Commencing on the effective date of the act
19 adding this subsection, a person has not committed the crime
20 of unlawful possession of marijuana if the person is in
21 possession of a valid medical cannabis card issued pursuant to
22 Chapter 33 of Title 2, unless there is reasonable cause to
23 believe that the information contained on the medical cannabis
24 card is false or falsified, the medical cannabis card has been
25 obtained by means of fraud, or the person is otherwise in
26 violation of Chapter 32 of Title 2 or a rule adopted thereto.

1 "~~(b)~~ (c) Unlawful possession of ~~marihuana~~ marijuana
2 in the first degree pursuant to subdivision (1) of subsection
3 (a) is a Class C felony.

4 "~~(c)~~ (d) Unlawful possession of ~~marihuana~~ marijuana
5 in the first degree pursuant to subdivision (2) of subsection
6 (a) is a Class D felony.

7 "§13A-12-214.

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

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

21 "~~(b)~~ (c) Unlawful possession of ~~marihuana~~ marijuana
22 in the second degree is a Class A misdemeanor.

23 "§13A-12-214.2.

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

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

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

5 "(2) CANNABIDIOL (CBD). [13956-29-1]. A
6 (nonpsychoactive) cannabinoid found in the plant Cannabis
7 sativa L. or any other preparation thereof that is essentially
8 free from plant material, and has a THC level of no more than
9 3 percent. Also known as (synonyms):
10 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p
11 entyl-1,3-benzenediol;
12 trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;
13 (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
14 D1(2)-trans-Cannabidiol.

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

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

24 "(c) In a prosecution for the unlawful possession of
25 marijuana under the laws of this state, it is an affirmative
26 and complete defense to the prosecution that the defendant has
27 a debilitating epileptic condition and used or possessed

1 cannabidiol (CBD) pursuant to a prescription authorized by the
2 UAB Department.

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

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

18 "(f) A prescription for the possession or use of
19 cannabidiol (CBD) as authorized by this section shall be
20 provided exclusively by the UAB Department for a debilitating
21 epileptic condition. Health care practitioners of the UAB
22 Department shall be the sole authorized source of any
23 prescription for the use of cannabidiol (CBD), and shall be
24 the sole authorized source to use cannabidiol (CBD) in or as a
25 part of the treatment of a person diagnosed with a
26 debilitating epileptic condition. A health care practitioner
27 of the UAB Department shall have the sole authority to

1 determine the use or amount of cannabidiol (CBD), if any, in
2 the treatment of an individual diagnosed with a debilitating
3 epileptic condition.

4 "(g) The UAB Department and any UAB School of
5 Medicine affiliated pediatric training entity, including any
6 authorized physician, nurse, attendant, or agent thereof,
7 shall not be subject to prosecution for the unlawful
8 possession, use, distribution, or prescription of marijuana
9 under the laws of this state for its activities arising
10 directly out of or directly related to the prescription or use
11 of cannabidiol (CBD) in the treatment of individuals diagnosed
12 with a debilitating epileptic condition.

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

17 "(i) The UAB Department and any UAB School of
18 Medicine affiliated pediatric training entity, including any
19 authorized physician, nurse, attendant or agent thereof, shall
20 not be subject to prosecution for the unlawful possession,
21 use, or distribution of marijuana under the laws of this state
22 for its activities arising directly out of or directly related
23 to the department's research and development activities in
24 pursuit of medical benefits and uses of cannabidiol (CBD), as
25 long as the prescription, treatment or use of cannabidiol
26 (CBD) is provided only to individuals diagnosed with a
27 debilitating epileptic condition.

1 "(j) Pursuant to the filing requirements of Rule
2 15.3 of the Alabama Rules of Criminal Procedure, the defendant
3 shall produce a valid prescription, certification of a
4 debilitating epileptic condition, and the name of the
5 prescribing health care professional authorized by the UAB
6 Department.

7 "(k) This section is repealed ~~July 1, 2019~~ January
8 1, 2021.

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

13 "§13A-12-214.3.

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

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

18 "a. CANNABIDIOL (CBD). [13956-29-1]. A
19 (nonpsychoactive) cannabinoid found in the plant Cannabis
20 sativa L. or any other preparation thereof that is free from
21 plant material, and has a THC level
22 (delta-9-tetrahydrocannabinol) of no more than three percent
23 relative to CBD according to the rules adopted by the Alabama
24 Department of Forensic Sciences. Also known as (synonyms):
25 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p
26 entyl-1,3-benzenediol;
27 trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;

1 (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
2 D1(2)-tran-Cannabidiol and that is tested by a independent
3 third-party laboratory.

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

7 "(3) In addition to the affirmative defense provided
8 in Section 13A-12-214.2, in a prosecution for the unlawful
9 possession of marijuana in the second degree under Section
10 13A-12-214, it is an affirmative and complete defense that the
11 defendant used or possessed CBD if the defendant satisfies
12 either of the following:

13 "a. He or she has a debilitating medical condition.

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

17 "(4) An agency of this state or a political
18 subdivision thereof, including any law enforcement agency, may
19 not initiate proceedings to remove a child from the home of a
20 parent or guardian, nor initiate any child protection action
21 or proceedings, based solely upon the parent's or child's
22 possession or use of CBD as allowed by this section.

23 "(5) Nothing in this section shall be construed to
24 require the various individual or group insurance
25 organizations providing protection, indemnity, or insurance
26 against hospital, medical, or surgical expenses, or health

1 maintenance organizations to provide payment or reimbursement
2 for prescriptions of CBD.

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

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

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

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

18 Section 2. Chapter 33 commencing with Section
19 2-33-1, is added to Title 2, Code of Alabama 1975, to read as
20 follows:

21 Article 1. General Provisions.

22 §2-33-1.

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

25 §2-33-2.

26 As used in this chapter, the following terms have
27 the following meanings:

1 (1) CANNABIS. All parts of any plant of the genus
2 cannabis, whether growing or not, including the seeds,
3 extractions of any kind from any part of the plant, and every
4 compound, derivative, mixture, product, or preparation of the
5 plant.

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

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

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

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

21 (6) MEDICAL USE. The acquisition, possession, use,
22 delivery, transfer, or administration of cannabis authorized
23 by this chapter. The term does not include possession, use, or
24 administration of cannabis that was not purchased or acquired
25 from a licensed dispensary.

1 (7) PATIENT REGISTRY. A documented, electronic, and
2 integrated medical cannabis card system for patient
3 registration.

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

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

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

- 14 a. Addiction.
- 15 b. Alzheimer's disease.
- 16 c. Amyotrophic lateral sclerosis.
- 17 d. Anxiety.
- 18 e. Autism.
- 19 f. Cancer.
- 20 g. Cerebral palsy.
- 21 h. Chemo-associated nausea, vomiting, and anorexia.
- 22 i. Chronic pain.
- 23 j. Crohn's disease.
- 24 k. Cystic fibrosis.
- 25 l. Depression.
- 26 m. Glaucoma.
- 27 n. Epilepsy/seizures.

- 1 o. HIV/AIDS.
- 2 p. Huntington's disease.
- 3 q. Irritable Bowel Syndrome.
- 4 r. Multiple sclerosis.
- 5 s. Muscular dystrophy.
- 6 t. Osteogenesis Imperfecta.
- 7 u. Renal failure.
- 8 v. Parkinson's disease.
- 9 w. Post-laminectomy syndrome.
- 10 x. Post traumatic stress syndrome.
- 11 z. Severe psoriasis
- 12 aa. Psoriatic arthritis.
- 13 bb. Schizophrenia and other psychoses.
- 14 cc. Sleep disorders.
- 15 dd. Tourette syndrome.
- 16 ee. Traumatic brain injury.
- 17 ff. End-of-life pain management or palliative care.
- 18 gg. Terminal conditions.
- 19 hh. Any additional conditions approved by the
- 20 commission by rule.

21 (11) TERMINAL CONDITION. A progressive disease or
22 medical or surgical condition that causes significant
23 functional impairment, is not considered by a treating
24 physician to be reversible without the administration of
25 life-sustaining procedures, and is expected to result in death
26 within six months after diagnosis if the condition runs its
27 normal course.

1 §2-33-3.

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

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

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

16 §2-33-4.

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

25 §2-33-5.

26 (a) An individual may not acquire, possess, or use a
27 medical cannabis product without a valid medical cannabis card

1 issued pursuant to this chapter, except as provided in
2 subsection (d). A medical cannabis card may only be issued to
3 a qualified patient or designated caregiver.

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

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

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

25 §2-33-6.

26 This chapter does not do any of the following:

1 (1) Require an insurer, organization for managed
2 care, health benefit plan, or any person or entity who
3 provides coverage for a medical or health care service to pay
4 for or reimburse a person for costs associated with the
5 medical use of cannabis.

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

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

13 §2-33-7.

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

19 (1) Three members appointed by the Governor, one of
20 whom is a physician licensed to practice medicine in this
21 state, certified in the specialty of neurology; one of whom is
22 a physician licensed to practice medicine in this state with a
23 practice that involves pain management; and one of whom has
24 professional experience in industrial systems or business. The
25 initial terms shall be four, three, and two years,
26 respectively.

1 (2) Three members appointed by the President Pro
2 Tempore of the Senate, one of whom is a physician licensed to
3 practice medicine in this state, certified in the specialty of
4 oncology; one of whom is a general physician licensed to
5 practice medicine in this state and practices in a rural,
6 underserved community; and one of whom has experience in
7 multiple crop development and agricultural practices. The
8 initial terms shall be one, four, and three years,
9 respectively.

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

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

23 (c) Members must be at least 30 years of age,
24 citizens of the United States, and residents of this state for
25 at least five continuous years immediately preceding their
26 appointment. The appointing officers shall coordinate their

1 appointments so that diversity of gender, race, and
2 geographical areas is reflective of the makeup of this state.

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

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

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

17 (g) Except as provided in subsection (h), the
18 commission shall meet each month and hold such other meetings
19 for any period of time as may be necessary for the commission
20 to transact and perform its official duties and functions. A
21 majority of members of the commission constitutes a quorum for
22 the transaction of any business, or in the performance of any
23 duty, power, or function of the commission, and the
24 concurrence of a majority of those present and voting in any
25 matter within its duties is required for a determination of
26 matters within its jurisdiction. The commission may hold a
27 special meeting at any time it deems necessary and advisable

1 in the performance of its official duties. A special meeting
2 may be called by the chair, or upon the written request of two
3 or more members. All members shall be duly notified by the
4 commission secretary of the time and place of any regular or
5 special meeting at least five days in advance of any meeting.
6 The chair is responsible for setting and keeping a meeting
7 schedule that ensures the commission meets the requirements of
8 this chapter. Members may not miss more than three meetings in
9 one calendar year.

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

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

16 b. Establish a website for public access and
17 information.

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

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

22 (2) After adopting initial rules, issuing the fast
23 track licenses, and publishing the patient medical cannabis
24 card application forms and procedures, the commission may
25 reduce meetings to one per month or vote on a schedule
26 appropriate for meeting all obligations under this chapter
27 regarding patient medical cannabis cards.

1 (i) (1) The commission may appoint a director to
2 serve at the pleasure of the commission. The director's salary
3 shall be fixed by the commission. The director shall be at
4 least 30 years of age and have been a citizen and resident of
5 this state for at least five years prior to appointment. The
6 director shall be licensed to practice law in this state. The
7 director is the chief administrative officer of the
8 commission, and all personnel employed by the commission shall
9 be under the director's direct supervision. The director is
10 solely responsible to the commission for the administration
11 and enforcement of this chapter and is responsible for the
12 performance of all duties and functions delegated by the
13 commission.

14 (2) The director shall maintain all records of the
15 commission and also serve as secretary of the commission. The
16 director shall prepare and keep the minutes of all meetings
17 held by the commission, including a record of all business
18 transacted and decisions rendered by the commission. A copy of
19 the record of the minutes and business transacted and
20 decisions rendered shall be kept on file at the department and
21 shall be available for public inspection.

22 (3) The director shall act and serve as hearing
23 officer when designated by the commission and shall perform
24 such duties as the regular hearing officer.

25 (j) The commission may appoint an assistant director
26 who shall perform such duties and functions which may be
27 assigned by the director or the commission. The assistant

1 director, if licensed to practice law in this state, may also
2 be designated by the commission to sit, act, and serve as a
3 hearing officer, and when designated as a hearing officer, the
4 assistant director may perform the same duties and functions
5 as the regular hearing officer.

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

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

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

19 (2) Be at least 30 years of age.

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

22 (4) Has experience and training in agricultural
23 inspections.

24 (m) The chief inspection and enforcement officer
25 shall be reimbursed for travel expenses in a manner similar to
26 state employees.

1 (n) The director, assistant director, and chief
2 inspection and enforcement officer shall be reimbursed for
3 actual travel expenses as other state employees are paid, when
4 approved by the chair. The director, chief inspection and
5 enforcement officer, and all other inspection and enforcement
6 personnel shall be employed on a full-time basis only.

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

13 §2-33-8.

14 (a) A member of the commission and any individual
15 employed by the commission may not have any interest,
16 financial or otherwise, either direct or indirect, in any
17 dispensary, cultivator, or manufacturer licensed under this
18 chapter. In addition, a member or employee of the commission
19 may not have any family member who is employed by any
20 dispensary, cultivator, or manufacturer or who holds any
21 cannabis license in this state. A member or employee of the
22 commission or his or her family member may not have an
23 interest of any kind in any building, fixture, or premises
24 occupied by any person licensed under this chapter; and may
25 not own any stock or have any interest of any kind, direct or
26 indirect, pecuniary or otherwise, by a loan, mortgage, gift,

1 or guarantee of payment of a loan, in any dispensary,
2 cultivator, or manufacturer licensed under this chapter.

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

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

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

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

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

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

21 §2-33-20.

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

26 (1) A physician licensed to practice medicine in
27 this state.

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

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

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

9 (c) Before being approved as a qualified health care
10 provider, and before each license renewal, a health care
11 provider must successfully complete a two-hour course and
12 subsequent examination that encompass the requirements of this
13 chapter and any rules adopted pursuant to this chapter. The
14 course and examination shall be administered at least annually
15 and may be offered in a distance learning format, including an
16 electronic, online format that is available upon request. The
17 commission may contract with a third party or the Board of
18 Medical Examiners to administer this section, provided the
19 commission approves any course material and examination. The
20 price of the course may not exceed five hundred dollars
21 (\$500).

22 §2-33-21.

23 (a) In order to commence, use, and maintain a
24 reliable patient registry system, by no later than July 31,
25 2020, the commission shall do all of the following:

1 (1) Establish and administer an integrated,
2 electronic patient registry system that does all of the
3 following:

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

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

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

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

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

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

1 (3) Begin issuing medical cannabis card requests
2 that meet the requirements of this chapter.

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

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

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

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

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

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

25 §2-33-22.

26 (a) The commission shall develop an application form
27 to be completed by qualified patients and designated

1 caregivers in order to be placed on the patient registry and
2 issued a medical cannabis card. The application form shall be
3 no longer than two pages in length and must be signed with an
4 affirmation of both of the following:

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

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

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

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

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

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

22 b. The patient's medical records from a qualified
23 health care provider confirming that the patient has been
24 diagnosed with a qualifying condition; provided, that the
25 records must be reviewed and accepted by the commission as
26 adequate proof that the patient requesting the card has been
27 so diagnosed.

1 (3) For an applicant who is a designated caregiver,
2 both of the following:

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

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

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

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

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

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

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

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

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

24 (4) The expiration date of the card.

25 (d) A medical cannabis card expires two years from
26 the date of issuance.

1 (e) Medical cannabis cards may be renewed in
2 accordance with rules adopted by the commission and upon
3 payment of a renewal fee of sixty-five dollars (\$65), or other
4 amount as determined by the commission.

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

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

11 (1) Provides misleading, incorrect, false, or
12 fraudulent information to the commission.

13 (2) Falsifies, alters, or otherwise modifies a
14 medical cannabis card.

15 (3) Fails to timely notify the department of any
16 changes to his or her qualified patient status.

17 (4) Violates the requirements of this chapter or any
18 rule adopted under this chapter.

19 §2-33-23.

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

24 (b) A caregiver may receive compensation from the
25 qualified patient or other entity for any services provided to
26 the qualified patient.

1 (c) A caregiver may not provide care to more than 10
2 qualified patients at any given time.

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

5 §2-33-40.

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

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

16 §2-33-41.

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

26 §2-33-42.

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

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

19 §2-33-43.

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

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

25 (2) Qualifications and requirements for licensees,
26 as further provided in subsection (b).

1 (3) The number of licenses the commission will issue
2 and locations of facilities, based on market demand for
3 stand-alone dispensaries, stand-alone cultivation, and
4 stand-alone processing or manufacturing facilities, and for
5 similar vertically integrated operations, and taking into
6 account the racial and economic makeup of the state, the
7 unemployment rate, the need for agricultural and other
8 business opportunities in communities, access to health care,
9 infrastructure, and other factors the commission deems
10 relevant in providing the greatest benefits to the residents
11 of this state.

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

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

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

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

26 (8) Measures or standards to ensure any cannabis
27 product remains secure at all times, including, but not

1 limited to, requirements that licensed facilities remain
2 securely enclosed and locked as appropriate.

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

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

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

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

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

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

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

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

24 e. A summary of projected tenant improvements,
25 production schedule, products, production capacity, standard
26 operating procedures, target customer base, and projected open
27 date.

1 f. Identification of all corporate officers and
2 summaries of the business experience for each individual
3 expected to be responsible for facility operations.

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

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

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

19 (6) Any other information the commission deems
20 appropriate.

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

25 (1) The applicant's ability to capitalize and
26 conduct operations as proposed in its business plan, including

1 business experience in related fields such as agriculture,
2 real estate, development, manufacturing, or retail sales.

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

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

10 §2-33-44.

11 (a) A licensed dispensary shall be required by the
12 commission to inspect a medical cannabis card before
13 dispensing any cannabis product.

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

20 §2-33-45.

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

26 §2-33-46.

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

6 (1) The number of patients applying for and
7 receiving medical cannabis cards.

8 (2) The qualifying conditions identified to obtain
9 the medical cannabis cards.

10 (3) Comments from health care providers and
11 pharmacists.

12 (4) Revenues and expenses of card issuance and
13 business licensing.

14 (5) Relevant developments in other states' cannabis
15 laws.

16 (6) Relevant scientific research.

17 (7) Applicable tax revenue.

18 (8) The commission's operating budget.

19 (9) Any other information available to the
20 commission that would inform public officials of how this
21 chapter affects the public.

22 §2-33-47.

23 The commission, by rule, shall establish protocols
24 for product testing, which shall be conducted during
25 cultivation, processing, and dispensing to ensure that all
26 dispensed medical cannabis is consistently medical grade. The

1 protocols for testing shall include the following, as well as
2 a determination of corresponding tolerance limits:

- 3 (1) Cannabinoids.
- 4 (2) Heavy metals.
- 5 (3) Microbials.
- 6 (4) Mycotoxins.
- 7 (5) Residual pesticides.
- 8 (6) Residual solvents.

9 §2-33-48.

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

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

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

25 §2-33-49.

26 (a) There is created a special account in the State
27 Treasury to be known as the Medical Cannabis Fund. All tax

1 proceeds collected pursuant to Section 2-33-48 must be
2 transmitted to the state Comptroller, who shall deposit the
3 same in the Medical Cannabis Fund. Expenditures from the
4 Medical Cannabis Fund may be made only upon appropriation by
5 the Legislature to implement and administer this chapter.
6 Specifically, the Medical Cannabis Fund includes all of the
7 following:

8 (1) Fees collected by the commission.

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

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

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

18 Section 3. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.