

By: Senator(s) Younger

To: Constitution; Judiciary,  
Division A

SENATE CONCURRENT RESOLUTION NO. 537

1 A CONCURRENT RESOLUTION PROPOSING TO CREATE NEW ARTICLE 16,  
2 SECTION 290 OF THE MISSISSIPPI CONSTITUTION OF 1890 TO PROVIDE  
3 CONSTITUTIONAL PROTECTION FOR THE LEGAL MEDICAL USE OF MARIJUANA;  
4 AND FOR RELATED PURPOSES.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF  
6 MISSISSIPPI, TWO-THIRDS OF THE SENATE AND HOUSE OF REPRESENTATIVES  
7 CONCURRING THEREIN, WHICH TWO-THIRDS CONSISTS OF NOT LESS THAN A  
8 MAJORITY OF THE MEMBERS ELECTED TO EACH HOUSE, That the following  
9 amendment to the Mississippi Constitution of 1890 is proposed to  
10 the qualified electors of the state for ratification or rejection  
11 at an election to be held on the first Tuesday after the first  
12 Monday of November 2019:

13 Article 16, Section 290, Mississippi Constitution of 1890, is  
14 created to read as follows:

15 **Section 290.** (1) **Title.** This section shall be known and  
16 cited as the "Mississippi Medical Marijuana Amendment of 2019."

17 (2) **Definitions.** As used in this section:

18 (a) "Acquire" or "acquisition" means coming to possess  
19 marijuana by means of any legal source authorized in this section,



20 not from an unauthorized source, and in accordance with this  
21 section and any rules promulgated under this section.

22 (b) "Assist" or "assisting" means helping a qualifying  
23 patient make medical use of marijuana by enabling the medical use  
24 by any means authorized under this section.

25 (c) "Cardholder" means a qualifying patient, a  
26 dispensary agent, a cultivation facility agent, or a designated  
27 caregiver.

28 (d) "Cultivation facility" means an entity that:

29 (i) Has been licensed by the Medical Marijuana  
30 Commission under subsection (8) of this section; and

31 (ii) Cultivates, prepares, manufactures,  
32 processes, packages, sells to and delivers usable marijuana to a  
33 dispensary.

34 (e) "Cultivation facility agent" means an employee,  
35 supervisor, or agent of a cultivation facility who:

36 (i) Is twenty-one (21) years of age or older;

37 (ii) Works at the cultivation facility; and

38 (iii) Has registered with the Alcoholic Beverage  
39 Control Division under subsection (8) of this section.

40 (f) (i) "Designated caregiver" means a person who is  
41 at least twenty-one (21) years of age, has not been convicted of  
42 an excluded felony offense, has agreed to assist a physically  
43 disabled qualifying patient with the medical use of marijuana, and



44 who has registered with the Department of Health under subsection  
45 (5) of this section;

46 (ii) "Designated caregiver" includes, without  
47 limitation, a parent:

48 1. Of a qualifying patient who is under the  
49 age of eighteen (18);

50 2. Required to register as a designated  
51 caregiver under this section; and

52 (iii) "Designated caregiver" does not include a  
53 member of the Mississippi National Guard or the United States  
54 military.

55 (g) "Dispensary" means an entity that has been licensed  
56 by the Medical Marijuana Commission under subsection (8) of this  
57 section.

58 (h) "Dispensary agent" means:

59 (i) An employee, supervisor, volunteer, or agent  
60 of a dispensary who:

61 1. Is twenty-one (21) years of age or older;

62 2. Works at the dispensary;

63 3. Has registered with the division under  
64 subsection (9) of this section; and

65 (ii) An owner, officer, or board member of a  
66 dispensary who has registered with the division under subsection  
67 (8) of this section.



68 (i) "Enclosed, locked facility" means a room,  
69 greenhouse, or other enclosed area equipped with locks or other  
70 security devices that permit access only by an authorized  
71 individual.

72 (j) "Excluded felony offense" means:

73 (i) A felony offense as determined by the  
74 jurisdiction where the felony offense occurred;

75 1. The Medical Marijuana Commission, the  
76 Department of Health, or the Alcoholic Beverage Control Division  
77 must determine whether an offense is a felony offense based upon a  
78 review of the relevant court records concerning the conviction for  
79 the offense; or

80 2. An offense that has been sealed by a court  
81 or for which a pardon has been granted is not considered an  
82 excluded felony offense.

83 (ii) A violation of a state or federal controlled  
84 substance law that was classified as a felony in the jurisdiction  
85 where the person was convicted, but not including:

86 1. An offense for which the sentence,  
87 including any term of probation, incarceration, or supervised  
88 release, was completed ten (10) or more years earlier; or

89 2. An offense that has been sealed by a court  
90 or for which a pardon has been granted.

91 (k) "Medical use" means the acquisition, possession,  
92 use, delivery, transfer, or transportation of marijuana or



93 paraphernalia relating to the administration of marijuana to treat  
94 or alleviate a qualifying patient's qualifying medical condition  
95 or symptoms associated with the qualifying patient's qualifying  
96 medical condition.

97 (l) "Physician" means a doctor of medicine or doctor of  
98 osteopathic medicine who holds a valid, unrestricted, and existing  
99 license to practice in the State of Mississippi and has been  
100 issued a registration from the United States Drug Enforcement  
101 Administration to prescribe controlled substances.

102 (m) "Qualifying medical condition" means one or more of  
103 the following:

104 (i) Cancer, glaucoma, positive status for human  
105 immunodeficiency virus/acquired immune deficiency syndrome,  
106 hepatitis C, amyotrophic lateral sclerosis, Tourette's syndrome,  
107 Crohn's disease, ulcerative colitis, post-traumatic stress  
108 disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or  
109 the treatment of these conditions;

110 (ii) A chronic or debilitating disease or medical  
111 condition or its treatment that produces one or more of the  
112 following: cachexia or wasting syndrome; peripheral neuropathy;  
113 intractable pain, which is pain that has not responded to ordinary  
114 medications, treatment, or surgical measures for more than six (6)  
115 months; severe nausea; seizures, including, without limitation,  
116 those characteristic of epilepsy; or severe and persistent muscle



117 spasms, including, without limitation, those characteristic of  
118 multiple sclerosis; and

119 (iii) Any other medical condition or its treatment  
120 approved by the Department of Health under subsection (4) of this  
121 section.

122 (n) (i) "Qualifying patient" means a person who has  
123 been diagnosed by a physician as having a qualifying medical  
124 condition and who has registered with the department under  
125 subsection (5) of this section; and

126 (ii) "Qualifying patient" does not include a  
127 member of the Mississippi National Guard or the United States  
128 military.

129 (o) "Registry identification card" means a document  
130 issued by the department or the division that identifies a person  
131 as a qualifying patient, a dispensary agent, a cultivation  
132 facility agent, or a designated caregiver.

133 (p) "Sealed" means to expunge, remove, sequester, and  
134 treat as confidential the record or records of a felony offense.

135 (q) (i) "Usable marijuana" means the stalks, seeds,  
136 roots, dried leaves, flowers, oils, vapors, waxes, and other  
137 portions of the marijuana plant and any mixture or preparation  
138 thereof; and

139 (ii) "Usable marijuana" does not include the  
140 weight of any ingredients other than marijuana that are combined  
141 with marijuana and prepared for consumption as food or drink.



142           (r) "Visiting qualifying patient" means a patient with  
143 a qualifying medical condition who is not a resident of  
144 Mississippi or who has been a resident of Mississippi for less  
145 than thirty (30) days and who is in actual possession of a  
146 registry identification card or its equivalent that is issued  
147 under the laws of another state, district, territory,  
148 commonwealth, or insular possession of the United States and  
149 pertains to a qualifying medical condition under this section.

150           (s) (i) "Written certification" means a document  
151 signed by a physician stating that in the physician's professional  
152 opinion, after having completed an assessment of the qualifying  
153 patient's medical history and current medical condition made in  
154 the course of a physician-patient relationship, the qualifying  
155 patient has a qualifying medical condition;

156                   (ii) A written certification must specify the  
157 qualifying patient's qualifying medical condition, which also must  
158 be noted in the physician's records;

159                   (iii) A physician shall not issue written  
160 certification to a patient based on an assessment performed  
161 through telemedicine;

162                   (iv) A written certification is not a medical  
163 prescription.

164           (t) (i) "Current use of marijuana" means use of  
165 marijuana that justifies the good faith belief of an employer that  
166 an applicant or employee is engaging in the use of marijuana;



167 (ii) "Current use of marijuana" is presumed when a  
168 positive test result for marijuana occurs.

169 (u) "Employee" means an individual employed by an  
170 employer, but does not include:

171 (i) An individual employed by his or her parents,  
172 spouse, or child;

173 (ii) An individual participating in a specialized  
174 employment training program conducted by a nonprofit sheltered  
175 workshop or rehabilitation facility;

176 (iii) An individual employed outside the State of  
177 Mississippi; or

178 (iv) An independent contractor.

179 (v) "Employer" means an entity that employs nine (9) or  
180 more employees in the State of Mississippi in twenty (20) or more  
181 calendar weeks in the current or preceding calendar year.

182 (w) (i) "Good faith belief" means reasonable reliance  
183 on a fact, or that which is held out to be factual, without intent  
184 to deceive or be deceived and without reckless or malicious  
185 disregard for the truth;

186 (ii) "Good faith belief" does not include a belief  
187 formed with gross negligence;

188 (iii) "Good faith belief" may be based on any of  
189 the following:

190 1. Observed conduct, behavior or appearance;





191                   2. Information reported by a person believed  
192 to be reliable, including, without limitation, a report by a  
193 person who witnessed the use or possession of marijuana or  
194 marijuana paraphernalia by an applicant or employee in the  
195 workplace;

196                   3. Written, electronic, or verbal statements  
197 from the employee or other persons;

198                   4. Lawful video surveillance;

199                   5. A record of government agencies, law  
200 enforcement agencies, or courts;

201                   6. A positive test result for marijuana;

202                   7. A warning label, usage standard, or other  
203 printed material that accompany instructions for usable marijuana;

204                   8. Information from a physician, medical  
205 review officer, or a dispensary;

206                   9. Information from reputable reference  
207 sources in print or on the Internet;

208                   10. Other information reasonably believed to  
209 be reliable or accurate; or

210                   11. Any combination of the items listed in  
211 this definition of good faith belief.

212                   (x) "Positive test result for marijuana" means a result  
213 that is at or above the cutoff concentration level established by  
214 the United States Department of Transportation or the Mississippi  
215 laws regarding being under the influence, whichever is lower.



216 (y) (i) "Safety-sensitive position" means any position  
217 involving a safety-sensitive function pursuant to federal  
218 regulations governing drug and alcohol testing adopted by the  
219 United States Department of Transportation or any other rules,  
220 guidelines, or regulations adopted by any other federal or state  
221 agency;

222 (ii) "Safety-sensitive position" also means any  
223 position designated in writing by an employer as a  
224 safety-sensitive position in which a person performing the  
225 position while under the influence of marijuana may constitute a  
226 threat to health or safety, including, without limitation, a  
227 position:

228 1. That requires any of the following  
229 activities:

230 a. Carrying a firearm;

231 b. Performing life-threatening  
232 procedures;

233 c. Working with confidential information  
234 or documents pertaining to criminal investigations; or

235 d. Working with hazardous or flammable  
236 materials, controlled substances, food, or medicine.

237 2. In which a lapse of attention could result  
238 in injury, illness, or death, including, without limitation, a  
239 position that includes the operating, repairing, maintaining, or



240 monitoring of heavy equipment, machinery, aircraft, motorized  
241 watercraft, or motor vehicles as part of the job duties.

242 (z) (i) "Under the influence" means symptoms of the  
243 current use of marijuana that may negatively impact the  
244 performance of the job duties or tasks or constitute a threat to  
245 health or safety;

246 (ii) "Under the influence" includes, without  
247 limitation:

248 1. Symptoms of the applicant's or employee's  
249 speech, walking, standing, physical dexterity, agility,  
250 coordination, actions, movement, demeanor, appearance, clothing,  
251 odor, or other irrational or unusual behavior that are  
252 inconsistent with the usual conduct of the applicant or employee;

253 2. Negligence or carelessness in operating  
254 equipment, machinery, or production or manufacturing processes;

255 3. Disregard for safety;

256 4. Involvement in an accident that results  
257 in:

258 a. Damage to equipment, machinery, or  
259 property;

260 b. Disruption of a production or  
261 manufacturing process; or

262 c. An injury;

263 5. Other symptoms causing a reasonable  
264 suspicion that the current use of marijuana may negatively impact



265 the performance of the job duties or tasks or constitute a threat  
266 to health or safety.

267       (3) **Protections for the medical use of marijuana.** (a) A  
268 qualifying patient or designated caregiver in actual possession of  
269 a registry identification card shall not be subject to arrest,  
270 prosecution, or penalty in any manner or denied any right or  
271 privilege, including, without limitation, a civil penalty or  
272 disciplinary action by a business, occupational, or professional  
273 licensing board or bureau, for the medical use of marijuana in  
274 accordance with this section if the qualifying patient or  
275 designated caregiver possesses not more than two and one-half  
276 (2-1/2) ounces of usable marijuana.

277               (b) (i) A qualifying patient or designated caregiver  
278 is presumed to be lawfully engaged in the medical use of marijuana  
279 in accordance with this section if the qualifying patient or  
280 designated caregiver is in actual possession of a registry  
281 identification card and possesses an amount of usable marijuana  
282 that does not exceed the amount allowed under this section; and

283                       (ii) The presumption made in subparagraph (i) of  
284 this paragraph (b) may be rebutted by evidence that conduct  
285 related to the use or possession of marijuana was not for the  
286 purpose of treating or alleviating the qualifying patient's  
287 qualifying medical condition or symptoms associated with the  
288 qualifying medical condition.



289           (c) A qualifying patient or designated caregiver shall  
290 not be subject to arrest, prosecution, or penalty in any manner or  
291 denied any right or privilege, including, without limitation, a  
292 civil penalty or disciplinary action by a business, occupational,  
293 or professional licensing board or bureau, for giving, or offering  
294 to give, up to two and one-half (2-1/2) ounces of usable marijuana  
295 to a qualifying patient or designated caregiver for the qualifying  
296 patient's medical use when nothing of value is transferred in  
297 return.

298           (d) A designated caregiver is not prohibited from  
299 receiving compensation or reimbursement of expenses from a  
300 qualifying patient for assisting a qualifying patient with the  
301 medical use of marijuana.

302           (e) A dispensary may:

303                   (i) Accept marijuana seedlings, plants, or usable  
304 marijuana from:

- 305                           1. Cultivation facilities;  
306                           2. Other dispensaries in Mississippi; and  
307                           3. If permissible under federal law,  
308 out-of-state dispensaries.

309                   (ii) Transfer or sell marijuana seedlings, plants,  
310 or usable marijuana to:

- 311                           1. Cultivation facilities;  
312                           2. Other dispensaries in Mississippi; and



313                   3. If permissible under federal law,  
314 out-of-state dispensaries.

315                   (iii) Accept marijuana seeds from any individual  
316 lawfully entitled to possess marijuana seeds, seedlings, or plants  
317 under the laws of the state in which the individual resides.

318                   (f) (i) A school or landlord shall not refuse to  
319 enroll, refuse to lease to, or otherwise penalize an individual  
320 solely for the individual's status as a qualifying patient or  
321 designated caregiver unless doing so would put the school or  
322 landlord in violation of federal law or regulations;

323                   (ii) For the purposes of medical care, including,  
324 without limitation, organ transplants, a qualifying patient's  
325 authorized use of marijuana in accordance with this section is  
326 considered the equivalent of the authorized use of any other  
327 medication used at the direction of a physician and does not  
328 constitute the use of an illicit substance;

329                   (iii) 1. An employer shall not discriminate  
330 against an applicant or employee in hiring, termination, or any  
331 term or condition of employment, or otherwise penalize an  
332 applicant or employee, based upon the applicant's or employee's  
333 past or present status as a qualifying patient or designated  
334 caregiver;

335                   2. A cause of action shall not be established  
336 against an employer based upon, and an employer is not prohibited  
337 from, any of the following actions:



338 a. Establishing and implementing a  
339 substance abuse or drug-free workplace policy that may include a  
340 drug-testing program that complies with state or federal law and  
341 taking action with respect to an applicant or employee under the  
342 policy; and

343 b. Acting on the employer's good faith  
344 belief that a qualifying patient:

345 A. Possessed, smoked, ingested, or  
346 otherwise engaged in the use of marijuana while on the  
347 premises of the employer or during the hours of employment;

348 B. Was under the influence of  
349 marijuana while on the premises of the employer or during the  
350 hours of employment, provided that a positive test result for  
351 marijuana cannot provide the sole basis for the employer's good  
352 faith belief;

353 C. Acting to exclude a qualifying  
354 patient from being employed in or performing a safety-sensitive  
355 position based on the employer's good faith belief that the  
356 qualifying patient was engaged in the current use of marijuana.

357 3. The authorized or protected actions of an  
358 employer under this subparagraph (iii) include, without  
359 limitation:

360 a. Implementing, monitoring, or taking  
361 measures to assess, supervise, or control the job performance of  
362 an employee;



363                                   b. Reassigning an employee to a  
364 different position or job duties;  
365                                   c. Placing an employee on paid or unpaid  
366 leave;  
367                                   d. Suspending or terminating an  
368 employee;  
369                                   e. Requiring an employee to successfully  
370 complete a substance abuse program before returning to work;  
371                                   f. Refusing to hire an applicant; or  
372                                   g. Any combination of the actions listed  
373 in this subparagraph (iii);  
374                                   (iv) 1. Damages established for an employment  
375 discrimination claim based on an applicant's or employee's past or  
376 present status as a qualifying patient or designated caregiver in  
377 violation of this section shall be limited to:  
378                                   a. Fifteen Thousand Dollars (\$15,000.00)  
379 in the case of an employer who employs fewer than fifteen (15)  
380 employees in each of twenty (20) or more calendar weeks in the  
381 current or preceding calendar year;  
382                                   b. Fifty Thousand Dollars (\$50,000.00)  
383 in the case of an employer who employs more than fourteen (14) and  
384 fewer than one hundred one (101) employees in each of twenty (20)  
385 or more calendar weeks in the current or preceding calendar year;  
386                                   c. One Hundred Thousand Dollars  
387 (\$100,000.00) in the case of an employer who employs more than one





388 hundred (100) and fewer than two hundred one (201) employees in  
389 each of twenty (20) or more calendar weeks in the current or  
390 preceding calendar year;

391 d. Two Hundred Thousand Dollars  
392 (\$200,000.00) in the case of an employer who employs more than two  
393 hundred (200) and fewer than five hundred one (501) employees in  
394 each of twenty (20) or more calendar weeks in the current or  
395 preceding calendar year; and

396 e. Three Hundred Thousand Dollars  
397 (\$300,000.00) in the case of an employer who employs more than  
398 five hundred (500) employees in each of twenty (20) or more  
399 calendar weeks in the current or preceding calendar year.

400 2. Liability for back pay shall not accrue  
401 from a date more than two (2) years before the filing of an  
402 action.

403 3. Damages under subparagraph (iii) of this  
404 paragraph (f) shall not duplicate or increase an award for damages  
405 over the statutory limit allowed by state or federal law existing  
406 on January 1, 2019, whichever is lower;

407 (v) An action based on employment discrimination  
408 in violation of subparagraph (iii) of this paragraph (f) must be  
409 brought within one (1) year of the occurrence of the alleged  
410 discrimination;

411 (vi) An individual employee, agent of the  
412 employer, or employee of the agent of the employer is not liable



413 for any violation of subparagraph (iii) of this paragraph (f) that  
414 the employer is found to have committed;

415 (vii) This section does not waive the sovereign  
416 immunity of the State of Mississippi.

417 (g) A person otherwise entitled to custody of, or  
418 visitation or parenting time with, a minor must not be denied  
419 custody, visitation, or parenting time solely for conduct allowed  
420 under this section, nor shall there be:

421 (i) A finding of abuse solely for conduct allowed  
422 under this section; or

423 (ii) A presumption of neglect or child  
424 endangerment for conduct allowed under this section.

425 (h) (i) A physician shall not be subject to arrest,  
426 prosecution, or penalty in any manner or denied any right or  
427 privilege, including, without limitation, a civil penalty or  
428 disciplinary action by the Mississippi State Medical Board or by  
429 any other business, occupational, or professional licensing board  
430 or bureau, solely for providing a written certification; and

431 (ii) Paragraph (g) (i) of this subsection (3) does  
432 not prevent a professional licensing board from sanctioning a  
433 physician for failing to properly evaluate a patient's medical  
434 condition or for otherwise violating the applicable  
435 physician-patient standard of care.

436 (i) A person shall not be subject to arrest,  
437 prosecution, or penalty in any manner or denied any right or



438 privilege, including, without limitation, a civil penalty or  
439 disciplinary action by a business, occupational, or professional  
440 licensing board or bureau, for providing a qualifying patient or  
441 designated caregiver with marijuana paraphernalia for purposes of  
442 facilitating the qualifying patient's medical use of marijuana.

443 (j) Any marijuana, marijuana paraphernalia, licit  
444 property, or interest in licit property, that is possessed, owned,  
445 or used exclusively in connection with the medical use of  
446 marijuana as allowed under this section, or property incidental to  
447 such use, shall not be seized or forfeited.

448 (k) A person shall not be subject to arrest,  
449 prosecution, or penalty in any manner or denied any right or  
450 privilege, including, without limitation, a civil penalty or  
451 disciplinary action by a business, occupational, or professional  
452 licensing board or bureau, simply for being in the presence or  
453 vicinity of the medical use of marijuana as allowed under this  
454 section or for directly assisting a physically disabled qualifying  
455 patient with the medical use of marijuana.

456 (l) (i) A registry identification card or its  
457 equivalent that is issued under the laws of another state,  
458 district, territory, commonwealth, or insular possession of the  
459 United States that allows a visiting qualifying patient to possess  
460 or use marijuana for medical use in the jurisdiction of issuance  
461 has the same force and effect when held by a visiting qualifying



462 patient as a registry identification card issued by the Department  
463 of Health if the same qualifying medical condition exists;

464 (ii) 1. A visiting qualifying patient may obtain  
465 marijuana from a dispensary upon producing evidence of his or her  
466 registry identification card or its equivalent that is issued  
467 under the laws of another state, district, territory,  
468 commonwealth, or insular possession of the United States; and

469 2. The department must promulgate necessary  
470 rules concerning a visiting qualifying patient obtaining marijuana  
471 from a dispensary.

472 (m) A pharmacist shall not be subject to arrest,  
473 prosecution, or penalty in any manner or denied any right or  
474 privilege, including, without limitation, a civil penalty or  
475 disciplinary action by the Mississippi State Board of Pharmacy or  
476 by any other business, occupational, or professional licensing  
477 board or bureau, solely for performing the pharmacist's duties as  
478 a pharmacist consultant for a registered dispensary.

479 (4) **Qualifying patient; administration and enforcement;**  
480 **rules.** (a) (i) The Department of Health must administer and  
481 enforce the provisions of this section concerning qualifying  
482 patients, qualifying medical conditions, and designated  
483 caregivers, including, without limitation, the issuance of a  
484 registry identification card to a qualifying patient and  
485 designated caregiver;

486 (ii) The department must adopt rules necessary to:



487                   1. Carry out the purposes of this section;  
488                   2. Perform its duties under this section;  
489                   (iii) Rules adopted under this subsection (4) are  
490 rules as defined in Section 25-43-1.102 of the Mississippi  
491 Administrative Procedures Law;  
492                   (iv) 1. The Department of Health must require  
493 each applicant for a designated caregiver registry identification  
494 card to apply for or authorize the Department of Health to obtain  
495 state and national criminal background checks to be conducted by  
496 the Bureau of Investigation of the Mississippi Department of  
497 Public Safety and the Federal Bureau of Investigation;  
498                   2. The criminal background checks must  
499 conform to the applicable federal standards and must include the  
500 taking of fingerprints;  
501                   3. The applicant must authorize the release  
502 of the criminal background checks to the Department of Health and  
503 shall be responsible for the payment of any fee associated with  
504 the criminal background checks; and  
505                   4. Upon completion of the criminal background  
506 checks, the Bureau of Investigation of the Mississippi Department  
507 of Public Safety and the Federal Bureau of Investigation must  
508 forward to the Department of Health all information obtained  
509 concerning the applicant.



510 (b) Not later than one hundred eighty (180) days after  
511 the effective date of this section, the department must adopt  
512 rules governing:

513 (i) The manner in which the department considers  
514 applications for and renewals of registry identification cards;

515 (ii) Labeling and testing standards for marijuana  
516 distributed to qualifying patients, including a warning label on  
517 all marijuana for medical use that is processed or sold for  
518 smoking that communicates the health and safety risks associated  
519 with smoking and a list of places and conditions in which smoking  
520 marijuana for medical use is illegal in the State of Mississippi;  
521 and

522 (iii) Any other matters necessary for the  
523 department's fair, impartial, stringent, and comprehensive  
524 administration of this section.

525 (c) (i) Not later than one hundred eighty (180) days  
526 after the effective date of this section, the department must  
527 adopt rules that govern the manner in which the department  
528 considers petitions from the public to add medical conditions or  
529 treatments to the list of qualifying medical conditions set forth  
530 in subsection (2) of this section;

531 (ii) In considering a petition, the department  
532 must add medical conditions or treatments to the list of  
533 qualifying medical conditions set forth in subsection (2) of this  
534 section if patients suffering from the medical conditions or



535 undergoing the treatments in question would derive therapeutic  
536 benefit from the use of marijuana, taking into account the  
537 positive and negative health effects of such use;

538 (iii) 1. The department, after hearing, must  
539 approve or deny a petition within one hundred twenty (120) days of  
540 submission of the petition;

541 2. The approval or denial of a petition  
542 constitutes final agency action, subject to judicial review by the  
543 Circuit Court of the First Judicial District of Hinds County; and

544 (iv) The department must adopt rules within one  
545 hundred eighty (180) days of the effective date of this section  
546 that govern the manner in which a designated caregiver assists a  
547 physically disabled qualifying patient or a qualifying patient  
548 under the age of eighteen (18) with the medical use of marijuana.

549 (d) The department may collect fines or fees for any  
550 violation of a rule adopted under this subsection (4).

551 (5) **Registry identification cards.** (a) The Department of  
552 Health must issue registry identification cards to qualifying  
553 patients and designated caregivers who submit in accordance with  
554 the rules promulgated by the department:

555 (i) Written certification issued by a physician  
556 within thirty (30) days of the application;

557 (ii) 1. A reasonable application or renewal fee  
558 as established by the department by rule;



559                   2. The department may establish a sliding  
560 scale of application and renewal fees based upon a qualifying  
561 patient's family income;

562                   (iii) The name, address, and date of birth of the  
563 qualifying patient or designated caregiver, except that if the  
564 applicant is homeless, no address is required;

565                   (iv) For a designated caregiver application:

566                   1. The name of the physically disabled  
567 qualifying patient or qualifying patient under the age of eighteen  
568 (18) whom the applicant will be assisting; and

569                   2. Documentation from the qualifying  
570 patient's physician indicating that the qualifying patient is  
571 physically disabled or under the age of eighteen (18);

572                   (v) The name, address, and telephone number of the  
573 qualifying patient's physician; and

574                   (vi) A signed statement from the qualifying  
575 patient or designated caregiver pledging not to divert marijuana  
576 to anyone who is not allowed to possess marijuana under this  
577 section.

578                   (b) The department shall not issue a registry  
579 identification card to a qualifying patient who is under eighteen  
580 (18) years of age unless:

581                   (i) The qualifying patient's physician has  
582 explained the potential risks and benefits of the medical use of





583 marijuana to the qualifying patient and to a parent, guardian, or  
584 person having legal custody of the qualifying patient;

585 (ii) A parent, guardian, or person having legal  
586 custody:

587 1. Consents in writing to:

588 a. Allow the qualifying patient's  
589 medical use of marijuana;

590 b. Assist the qualifying patient in the  
591 medical use of marijuana; and

592 c. Control the acquisition of the  
593 marijuana, the dosage, and the frequency of the medical use of  
594 marijuana by the qualifying patient.

595 2. Registers as a designated caregiver under  
596 this section.

597 (c) (i) The department must review the information  
598 contained in an application or renewal submitted under this  
599 subsection (5) within fourteen (14) days of receiving it.

600 (ii) The department must deny an application or  
601 renewal if the:

602 1. Applicant previously had a registry  
603 identification card revoked; or

604 2. Department determines the written  
605 certification was not made in the context of a physician patient  
606 relationship or that the written certification was fraudulently  
607 obtained.



608 (iii) Rejection of an application or renewal is  
609 considered a final agency action, subject to judicial review by  
610 the Circuit Court of the First Judicial District of Hinds County.

611 (d) (i) A registry identification card expires one (1)  
612 year after the date of issuance unless the physician states in the  
613 written certification that he or she believes the qualifying  
614 patient would benefit from the medical use of marijuana only until  
615 a specified earlier date; and

616 (ii) If the written certification specifies an  
617 earlier date, the registry identification card shall expire on  
618 that date.

619 (e) (i) An application or renewal and supporting  
620 information submitted by a qualifying patient or designated  
621 caregiver under this section, including, without limitation,  
622 information regarding the qualifying patient's physician, are  
623 considered confidential records that are exempt from the  
624 Mississippi Public Records Act of 1983, Section 25-61-1 et seq;

625 (ii) 1. a. The department must maintain a  
626 confidential list of the persons to whom the department has issued  
627 registry identification cards;

628 b. A. The department may share  
629 information from the confidential list under this subsection (5)  
630 with the Alcoholic Beverage Control Division of the Mississippi  
631 Department of Revenue and the Mississippi Medical Marijuana  
632 Commission as necessary;



633 B. Confidential information shared  
634 with the division or commission must remain confidential while in  
635 the division's or commission's possession;

636 2. Individual names and other identifying  
637 information on the confidential list are confidential, exempt from  
638 the Mississippi Public Records Act of 1983, Section 25-61-1 et  
639 seq., and not subject to disclosure except to authorized employees  
640 of the department, division, and commission as necessary to  
641 perform official duties of the department, division, and  
642 commission;

643 (iii) The department must verify to law  
644 enforcement personnel whether a registry identification card is  
645 valid without disclosing more information than is reasonably  
646 necessary to verify the authenticity of the registry  
647 identification card; and

648 (iv) A person, including, without limitation, an  
649 employee or official of the department, division, commission, or  
650 another state agency or local government, who knowingly breaches  
651 the confidentiality of information obtained under this section  
652 commits a misdemeanor.

653 (g) (i) Except as provided in subsection (3) of this  
654 section, a cardholder who transfers marijuana to a person who is  
655 not a qualifying patient or designated caregiver under this  
656 section must have his or her registry identification card revoked  
657 and shall be subject to any other penalties established by law;



658 (ii) The department may revoke the registry  
659 identification card of any cardholder who knowingly violates any  
660 provision of this section, and the cardholder is subject to any  
661 other penalties established by law;

662 (iii) This subsection (5) does not prohibit:

663 1. A qualifying patient or designated  
664 caregiver from giving up to two and one-half (2-1/2) ounces of  
665 usable marijuana to another qualifying patient or designated  
666 caregiver as set forth in subsection (3) of this section; or

667 2. The transfer of marijuana seedlings,  
668 plants, or usable marijuana as set forth in subsection (3) of this  
669 section.

670 (h) The department, division, and commission must  
671 submit to the Legislature an annual report that does not disclose  
672 any identifying information about cardholders or physicians but  
673 contains at a minimum:

674 (i) The number of applications and renewals filed  
675 for registry identification cards;

676 (ii) The nature of the qualifying medical  
677 conditions of the qualifying patients;

678 (iii) The number of registry identification cards  
679 revoked and the number of licenses to operate a dispensary and  
680 licenses to operate a cultivation facility revoked;

681 (iv) The number of physicians providing written  
682 certifications for qualifying patients;



- 683 (v) The number of licensed dispensaries;  
684 (vi) The number of licensed cultivation  
685 facilities;  
686 (vii) The number of dispensary agents; and  
687 (viii) The number of cultivation facility agents.

688 (6) **Scope.** (a) This section does not permit a person to:

689 (i) Undertake any task under the influence of  
690 marijuana when doing so would constitute negligence or  
691 professional malpractice;

692 (ii) Possess, smoke, or otherwise engage in the  
693 medical use of marijuana:

- 694 1. On a school bus;  
695 2. On the grounds of a daycare center,  
696 preschool, primary or secondary school, college, or university;  
697 3. At a drug or alcohol treatment facility;  
698 4. At a community or recreation center;  
699 5. In a correctional facility;  
700 6. On any form of public transportation;  
701 7. In a public place;  
702 8. On any property that is under control of  
703 the Mississippi National Guard or the United States military;

704 (iii) Operate, navigate, or be in actual physical  
705 control of a motor vehicle, aircraft, motorized watercraft, or any  
706 other vehicle drawn by power other than muscle power while under  
707 the influence of marijuana;



- 708 (iv) Smoke marijuana:
- 709 1. In a place where the smoking of tobacco is
- 710 prohibited by law;
- 711 2. In the presence of a person who is under
- 712 fourteen (14) years of age;
- 713 3. Inside a motor vehicle, aircraft,
- 714 motorized watercraft, or any vehicle drawn by power other than
- 715 muscle power;
- 716 4. Knowingly in the presence of a pregnant
- 717 woman;
- 718 5. In a place where the smoking of marijuana
- 719 for medical use is likely to cause another person not authorized
- 720 to use marijuana to be under the influence of marijuana; or
- 721 (vi) Smoke marijuana for medical use if the person
- 722 is under twenty-one (21) years of age.

723 (b) This section does not require:

- 724 (i) A government medical assistance program or
- 725 private health insurer to reimburse a person for costs associated
- 726 with the medical use of marijuana unless federal law requires
- 727 reimbursement;
- 728 (ii) An employer to accommodate the ingestion of
- 729 marijuana in a workplace or an employee working while under the
- 730 influence of marijuana;



731 (iii) An individual or establishment in lawful  
732 possession of property to allow a guest, client, customer, or  
733 other visitor to use marijuana on or in that property;

734 (iv) An individual or establishment in lawful  
735 possession of property to admit a guest, client, customer, or  
736 other visitor who is inebriated as a result of his or her medical  
737 used of marijuana;

738 (v) A landlord to permit a qualifying patient to  
739 smoke marijuana on or in leased property, except that a landlord  
740 may not prohibit the medical use of marijuana through means other  
741 than smoking on leased property by a qualifying patient; or

742 (vi) A public school to permit a qualifying  
743 patient who is a student to be present on school grounds, to  
744 attend a school event, or to participate in extracurricular  
745 activities in violation of the public school's student discipline  
746 policies when a school office has a good faith belief that the  
747 behavior of the qualifying patient is impaired.

748 (7) **Affirmative defense and dismissal for medical use of**  
749 **marijuana.** (a) Except as provided in subsection (6) of this  
750 section and this subsection (7), an individual may assert a  
751 medical purpose for using marijuana as an affirmative defense to  
752 prosecution for an offense involving marijuana intended for the  
753 individual's medical use; this defense is presumed valid and the  
754 prosecution must be dismissed where the evidence demonstrates that  
755 the individual is:



756 (i) A qualifying patient or a designated  
757 caregiver; and

758 (ii) In compliance with the conditions set forth  
759 in subsection (3) of this section.

760 (b) The defense and motion to dismiss shall not prevail  
761 if either of the following are proven:

762 (i) The individual's registry identification card  
763 had been revoked at the time of the alleged offense; or

764 (ii) The purposes for the possession of marijuana  
765 were not solely for medical use.

766 (c) An individual is not required to be in actual  
767 physical possession of a registry identification card to raise the  
768 affirmative defense set forth in this subsection (7).

769 (d) Except as provided in subsection (6) of this  
770 section, if an individual demonstrates a medical use of marijuana  
771 authorized under this section, the individual shall not be subject  
772 to the following:

773 (i) Disciplinary action by a business,  
774 occupational, or professional licensing board or bureau; or

775 (ii) Forfeiture of any interest in or right to  
776 nonmarijuana, licit property.

777 (8) **Licensing of dispensaries and cultivation facilities.**

778 (a) (i) Dispensaries and cultivation facilities must be licensed  
779 by the Mississippi Medical Marijuana Commission;





780 (ii) The commission must administer and regulate  
781 the licensing of dispensaries and cultivation facilities,  
782 including the issuance of a:

- 783 1. License to operate a dispensary;
- 784 2. License to operate a cultivation facility;

785 and

786 (iii) The Alcoholic Beverage Control Division must  
787 administer and enforce the provisions of this section concerning  
788 dispensaries and cultivation facilities.

789 (b) (i) The commission and division must each adopt  
790 rules necessary to:

- 791 1. Carry out the purposes of this section;
- 792 and
- 793 2. Perform its duties under this section.

794 (ii) Rules adopted under this subsection (8) are  
795 rules as defined in the Mississippi Administrative Procedures Law,  
796 Section 25-43-1.101 et seq.

797 (c) In order to be associated with a dispensary or  
798 cultivation facility, the following individuals must be current  
799 residents of Mississippi who have resided in the state for the  
800 previous seven (7) consecutive years:

801 (i) The individuals submitting an application to  
802 license a dispensary or cultivation facility; and

803 (ii) Sixty percent (60%) of the individuals owning  
804 an interest in a dispensary or cultivation facility.



805 (d) Not later than one hundred eighty (180) days after  
806 the effective date of this section, the commission must adopt  
807 rules governing:

808 (i) The manner in which the commission considers  
809 applications for and renewals of licenses for dispensaries and  
810 cultivation facilities;

811 (ii) The form and content of registration and  
812 renewal applications for dispensaries and cultivation facilities;  
813 and

814 (iii) Any other matters necessary for the  
815 commission's fair, impartial, stringent, and comprehensive  
816 administration of its duties under this section.

817 (e) Not later than one hundred eighty (180) days after  
818 the effective date of this section, the division must adopt rules  
819 governing:

820 (i) Oversight requirements for dispensaries and  
821 cultivation facilities;

822 (ii) Recordkeeping requirements for dispensaries  
823 and cultivation facilities;

824 (iii) Security requirements for dispensaries and  
825 cultivation facilities;

826 (iv) Personnel requirements for dispensaries and  
827 cultivation facilities;



828 (v) The manufacture, processing, packaging,  
829 labeling, and dispensing of usable marijuana to qualifying  
830 patients and designated caregivers, including, without limitation;

831 1. Before sale, food or drink that has been  
832 combined with usable marijuana shall not exceed ten (10)  
833 milligrams of active tetrahydrocannabinol per portion and must be  
834 physically demarked;

835 2. If portions cannot be physically  
836 determined, the entirety of the food or drink that has been  
837 combined with usable marijuana shall not contain more than ten  
838 (10) milligrams of active tetrahydrocannabinol;

839 (vi) Procedures for suspending or terminating the  
840 licenses of dispensaries and cultivation facilities that violate  
841 the provisions of this section or the rules adopted under this  
842 section, procedures for appealing penalties, and a schedule of  
843 penalties;

844 (vii) Procedures for inspections and  
845 investigations of dispensaries and cultivation facilities;

846 (viii) Advertising restrictions for dispensaries  
847 and cultivation facilities, including, without limitation, the  
848 advertising, marketing, packaging, and promotion of dispensaries  
849 and cultivation facilities with the purpose to avoid making the  
850 product of a dispensary or a cultivation facility appealing to  
851 children, including, without limitation:

852 1. Artwork;



853                   2. Building signage;

854                   3. Product design, including, without  
855 limitation, shapes and flavors;

856                   4. Child-proof packaging that cannot be  
857 opened by a child or that prevents ready access to toxic or  
858 harmful amount of the product, and that meets the testing  
859 requirements in accordance with the method described in 16 C.F.R.  
860 Section 1700.20, as existing on January 1, 2019;

861                   5. Indoor displays that can be seen from  
862 outside the dispensary or cultivation facility; and

863                   6. Other forms of marketing related to  
864 medical marijuana;

865                   (ix) Procedures for the disposal or other use of  
866 marijuana not dispensed to a qualifying patient; and

867                   (x) Any other matters necessary for the division's  
868 fair, impartial, stringent, and comprehensive administration of  
869 its duties under this section.

870                   (f) (i) Not later than one hundred eighty (180) days  
871 after the effective date of this section, the commission must  
872 adopt rules establishing license application and license renewal  
873 fees for dispensary and cultivation facility licenses;

874                   (ii) 1. The initial dispensary application fee  
875 must not exceed Seven Thousand Five Hundred Dollars (\$7,500.00).



876                   2. The initial cultivation facility  
877 application fee must not exceed Fifteen Thousand Dollars  
878 (\$15,000.00).

879                   3. A license that is initially issued between  
880 January 1 and July 1 may have the licensing fees up to fifty  
881 percent (50%) prorated and refunded as determined by the  
882 commission.

883                   (g) (i) Not later than July 1, 2020, the commission  
884 must begin accepting applications for licenses to operate a  
885 dispensary and cultivation facility;

886                   (ii) The application must include, at a minimum,  
887 the following:

888                   1. The application fee;

889                   2. The legal name of the dispensary or  
890 cultivation facility;

891                   3. The physical address of the:

892                   a. Dispensary, the location of which may  
893 not be within one thousand five hundred (1,500) feet of a public  
894 or private school, church, or daycare center that was in existence  
895 before the date of the dispensary application, which shall be  
896 calculated from the primary entrance of the dispensary to the  
897 nearest property boundary of a public or private school, church,  
898 or daycare center; or

899                   b. Cultivation facility, the location of  
900 which may not be within three thousand (3,000) feet of a public or



901 private school, church, or daycare center that was in existence  
902 before the date of the cultivation facility application, which  
903 shall be calculated from the primary entrance of the cultivation  
904 facility to the nearest property boundary of a public or private  
905 school, church, or daycare center;

906 4. The name, address, and date of birth of  
907 each dispensary agent or cultivation facility agent; and

908 5. If the city, town, or county in which the  
909 dispensary or cultivation facility would be located has enacted  
910 zoning restrictions, a sworn statement certifying that the  
911 dispensary or cultivation facility will operate in compliance with  
912 the restrictions;

913 (iii) A person is not eligible to be an owner,  
914 board member, or officer of the dispensary or cultivation facility  
915 if the person:

916 1. Has been convicted of an excluded felony  
917 offense;

918 2. Has previously been an owner of a  
919 dispensary or cultivation facility that has had its license  
920 revoked; and

921 3. Is under twenty-one (21) years of age;

922 (iv) 1. The commission may issue a temporary  
923 license to a another natural person in conjunction with a  
924 dispensary or a cultivation facility when the natural person whose  
925 name is on the license for the dispensary or cultivation facility



926 ceases to be in actual control of the dispensary or cultivation  
927 facility.

928                   2. The commission must adopt rules as  
929 necessary to provide temporary licenses.

930           (h) The commission must issue at least twenty (20) but  
931 no more than forty (40) dispensary licenses.

932           (i) There must be no more than four (4) dispensaries in  
933 any one (1) county.

934           (j) The commission must issue at least four (4) but no  
935 more than eight (8) cultivation facility licenses.

936           (k) (i) The commission must conduct criminal  
937 background checks in order to carry out this subsection (8);

938                   (ii) The commission must require each applicant  
939 for a dispensary license or cultivation facility license to apply  
940 for or authorize the commission to obtain state and national  
941 criminal background checks to be conducted by the Bureau of  
942 Investigation of the Mississippi Department of Public Safety and  
943 the Federal Bureau of Investigation;

944                   (iii) The criminal background checks must conform  
945 to the applicable federal standards and must include the taking of  
946 fingerprints;

947                   (iv) The applicant must authorize the release of  
948 the criminal background checks to the commission and is  
949 responsible for the payment of all fees associated with the  
950 criminal background checks; and



951 (v) Upon completion of the criminal background  
952 checks, the Department of Public Safety must forward to the  
953 commission all information obtained concerning the applicant.

954 (1) A single individual is not allowed to own an  
955 interest in more than one (1) cultivation facility and one (1)  
956 dispensary.

957 (m) (i) 1. A dispensary licensed under this  
958 subsection (8) may acquire, possess, manufacture, process,  
959 prepare, deliver, transfer, transport, supply, and dispense  
960 marijuana, marijuana paraphernalia, and related supplies and  
961 educational materials to a qualifying patient or designated  
962 caregiver, but shall not supply, possess, manufacture, deliver,  
963 transfer, or sell marijuana paraphernalia that requires the  
964 combustion of marijuana to be properly utilized, including pipes,  
965 water pipers, bongs, chillums, rolling papers, and roach clips;

966 2. A dispensary licensed under this  
967 subsection (8) must:

968 a. Make marijuana vaporizers available  
969 for sale to qualifying patients; and

970 b. Provide educational materials about  
971 methods of ingestion of medical marijuana to qualifying patients  
972 and designated caregivers, including, without limitation:

973 A. Warnings on the potential health  
974 risks of smoking or combusting marijuana; and





975 B. Information on potential health  
976 benefits of vaporizing marijuana compared to smoking or  
977 combusting.

978 (ii) 1. A dispensary may receive compensation for  
979 providing the goods and services allowed by this section.

980 2. A dispensary may contract with a  
981 transporter, distributor, or processor to the extent of the  
982 license of the transporter, one (1) distributor, or processor.

983 (iii) 1. A dispensary may grow or possess fifty  
984 (50) mature marijuana plants at any one time, plus seedlings and  
985 all usable marijuana derived from those plants or predecessor  
986 plants.

987 2. A dispensary may contract with a  
988 cultivation facility to cultivate one or more mature marijuana  
989 plants that the dispensary is permitted to grow.

990 (iv) 1. a. A cultivation facility may cultivate  
991 and possess usable marijuana in an amount reasonably necessary to  
992 meet the demand for and needs of qualifying patients as determined  
993 by the commission with the assistance of the Department of Health.

994 b. However, a cultivation facility shall  
995 not sell marijuana in any form except to a dispensary or other  
996 cultivation facility.

997 2. A cultivation facility may also possess  
998 marijuana seeds.



999                   3. The commission, with the assistance of the  
1000 Department of Health, must promulgate rules determining the amount  
1001 of marijuana reasonably necessary under this subparagraph (iv).

1002                   4. a. A cultivation facility may receive  
1003 compensation for providing the goods and services allowed by this  
1004 subparagraph (iv).

1005                   b. A cultivation facility may contract  
1006 with a transporter, distributor, or processor to the extent of the  
1007 license of the transporter, distributor or processor.

1008                   (n) (i) A dispensary license and cultivation facility  
1009 license shall expire on June 30 of each calendar year and are  
1010 renewable on or before June 30 of each calendar year for the  
1011 fiscal year beginning July 1; and

1012                   (ii) The commission must issue a renewal  
1013 dispensary license or a renewal cultivation facility license  
1014 within ten (10) days to any entity that complies with the  
1015 requirements contained in this section, including, without  
1016 limitation, the payment of a renewal fee.

1017                   (o) The commission may charge a reasonable fee as  
1018 established by rule for the issuance of a renewal license.

1019                   (p) The commission and the division may collect fines  
1020 or fees for any violation of a rule adopted under this subsection  
1021 (8).

1022                   (q) (i) A license for a dispensary or cultivation  
1023 facility must only be issued to a natural person; and



1024 (ii) A license issued for a dispensary or  
1025 cultivation facility is transferable only to a natural person upon  
1026 approval of the commission.

1027 (r) Data or records submitted to the division or  
1028 commission under rules adopted under this section may be shared  
1029 with the Department of Health.

1030 (s) (i) A dispensary must appoint a pharmacist  
1031 consultant who is a pharmacist licensed with the Mississippi State  
1032 Board of Pharmacy;

1033 (ii) A pharmacist consultant must:

1034 1. Register as a dispensary agent under this  
1035 section and follow all procedures;

1036 2. Develop and provide training to other  
1037 dispensary agents at least one time every twelve (12) months from  
1038 the initial date of the opening of the dispensary on the following  
1039 subjects:

1040 a. Guidelines for providing information  
1041 to qualifying patients related to risks, benefits, and side  
1042 effects associated with medical marijuana;

1043 b. Recognizing the signs and symptoms of  
1044 substance abuse; and

1045 c. Guidelines for refusing to provide  
1046 medical marijuana to an individual who appears to be impaired or  
1047 abusing medical marijuana;



1048                   3. Assist in the development and  
1049 implementation of review and improvement processes for patient  
1050 education and support provided by the dispensary;  
1051                   4. Provide oversight for the development and  
1052 dissemination of:  
1053                   a. Education materials for qualifying  
1054 patients and designated caregivers that include:  
1055                   A. Information about possible side  
1056 effects and contraindications of medical marijuana;  
1057                   B. Guidelines for notifying the  
1058 physician who provided the written certification for medical  
1059 marijuana if side effects or contraindications occur;  
1060                   C. A description of the potential  
1061 effects of differing strengths of medical marijuana strains and  
1062 products;  
1063                   D. Information about potential  
1064 drug-to-drug interactions, including interactions with alcohol,  
1065 prescription drugs, nonprescription drugs, and supplements;  
1066                   E. Techniques for the use of  
1067 medical marijuana and marijuana paraphernalia; and  
1068                   F. Information about different  
1069 methods, forms, and routes of medical marijuana administration;  
1070                   b. Systems for documentation by a  
1071 qualifying patient or designated caregiver of the symptoms of a



1072 qualifying patient that includes a logbook, rating scale for pain  
1073 and symptoms, and guidelines for a patient's self-assessment; and  
1074 c. Policies and procedures for refusing  
1075 to provide medical marijuana to an individual who appears to be  
1076 impaired or abusing medical marijuana;

1077 5. Be accessible by the dispensary or  
1078 dispensary agent through:

1079 a. Telephonic means at all times during  
1080 operating hours; and

1081 b. Telephone or videoconference for a  
1082 patient consultation during operating hours.

1083 (t) (i) A cultivation facility must meet the physical  
1084 security controls set forth in 21 C.F.R. Sections 1301.72 through  
1085 1301.74, as existing on January 1, 2019;

1086 (ii) The Alcoholic Beverage Control Division must  
1087 adopt rules to implement the collection of fines and fees under  
1088 this section;

1089 (iii) All cultivation of marijuana must occur  
1090 within a building, greenhouse, or other structure that:

1091 1. Has a complete roof enclosure supported by  
1092 connecting walls that are constructed of solid material extending  
1093 from the ground to the roof;

1094 2. Is secure against unauthorized entry;

1095 3. Has a foundation, slab, or equivalent base  
1096 to which the floor is securely attached;



1097 4. Meets performance standards ensuring that  
1098 cultivation and processing activities cannot be and are not  
1099 perceptible from the structure in terms of:

- 1100 a. Common visual observation;
- 1101 b. Odors, smell, fragrances, or other  
1102 olfactory stimulus;
- 1103 c. Light pollution, glare, or  
1104 brightness;
- 1105 d. Adequate ventilation to prevent mold;  
1106 and
- 1107 e. Noise;

1108 5. Provides complete visual screening; and  
1109 6. Is accessible only through one or more  
1110 lockable doors;

1111 (iv) Current detailed plans and elevation drawings  
1112 of all operational areas involved with the production of medical  
1113 marijuana must be maintained on the premises of the cultivation  
1114 facility, including:

- 1115 1. All storage areas, ventilation systems,  
1116 and equipment used for production;
- 1117 2. All entrances and exits to the cultivation  
1118 facility;
- 1119 3. All windows, skylights, and retractable  
1120 mechanisms built into the roof;



- 1121                           4. The location of all required security  
1122 cameras;
- 1123                           5. The location of all alarm inputs,  
1124 detectors, and sirens;
- 1125                           6. All video and alarm system surveillance  
1126 areas;
- 1127                           7. All production areas labeled according to  
1128 the specific activity occurring within the area;
- 1129                           8. All restricted and limited access areas  
1130 identified; and
- 1131                           9. All nonproduction areas labeled according  
1132 to purpose;
- 1133                           (v) Access to areas where marijuana is grown,  
1134 harvested, processed and stored is limited to authorized personnel  
1135 and that is:
- 1136                           1. Designated by clearly marked signage; and  
1137                           2. Locked and accessible only by authorized  
1138 personnel on a current roster of authorized personnel;
- 1139                           (vi) 1. Written policies regarding any  
1140 nonregistered agent who may visit the premises and a log of all  
1141 visitors to the premises must be developed and maintained;
- 1142                           2. The log shall consist of the visitor's  
1143 name, purpose of visit, time of arrival, and time of departure;
- 1144                           3. Visitors to a cultivation facility must  
1145 be:



1146 a. Issued a visitor identification tag  
1147 containing the visitor's name that must be worn for the duration  
1148 of the visit on the premises; and

1149 b. Escorted by a cultivation facility  
1150 agent at all times while present on the premises;

1151 4. a. However, contractors conducting  
1152 repairs, maintenance, or other specific duties may be escorted to  
1153 their work site and left unaccompanied while completing a job; and

1154 b. Cultivation facility agents must  
1155 ensure that the contractor and area under repair are under video  
1156 surveillance for the duration of the time spent on the premises by  
1157 the contractor;

1158 (vii) 1. An alarm system is equipped that upon  
1159 attempted unauthorized entry, transmits a signal directly to a  
1160 central protection company for a local or state police agency and  
1161 a designated cultivation facility agent;

1162 2. The alarm system must:

1163 a. Provide coverage for all points of  
1164 ingress and egress to the cultivation facility, including, without  
1165 limitation, doorways, windows, loading bays, skylights, and  
1166 retractable roof mechanisms;

1167 b. Provide coverage of any room with an  
1168 exterior wall, any room containing a safe, and any room used to  
1169 grow or store medical marijuana;





1170 c. Be equipped with a panic drive that  
1171 upon activation will not only sound any audible alarm components  
1172 but will also notify law enforcement;

1173 d. Have duress and hold up features to  
1174 enable a cultivation facility agent to activate a silent alarm  
1175 notifying law enforcement of an emergency;

1176 e. Be equipped with failure notification  
1177 systems to notify cultivation facilities and law enforcement of  
1178 any failure in the alarm system; and

1179 f. Have the ability to remain  
1180 operational during a power outage;

1181 (viii) A cultivation facility must maintain  
1182 compliance with applicable city or county building or structure  
1183 rules, regulations, or ordinances and any other applicable state  
1184 laws or rules regarding buildings or structures.

1185 (9) **Registration and certification of cultivation facility**  
1186 **agents and dispensary agents.** (a) (i) Cultivation facility  
1187 agents and dispensary agents must register with the Alcoholic  
1188 Beverage Control Division;

1189 (ii) The division must administer and enforce the  
1190 provisions of this section concerning cultivation facility agents  
1191 and dispensary agents, including, without limitation, the issuance  
1192 of a:

1193 1. Registry identification card to a  
1194 dispensary agent; and



1195                           2. Registry identification card to a  
1196 cultivation facility agent.

1197                   (b) (i) The division must adopt rules necessary to:  
1198                           1. Carry out the purposes of this section;  
1199                           2. Perform its duties under this section; and

1200                   (ii) Rules adopted under this subsection (9) are  
1201 rules as defined in the Mississippi Administrative Procedures Law,  
1202 Section 25-43-1.101 et seq.

1203                   (c) Not later than one hundred eighty (180) days after  
1204 the effective date of this section, the division must adopt rules  
1205 governing:

1206                           (i) The manner in which the division considers  
1207 applications for and renewals of registry identification cards for  
1208 dispensary agents and cultivation facility agents;

1209                           (ii) The form and content of registration and  
1210 renewal applications for dispensary agents and cultivation  
1211 facility agents;

1212                           (iii) Procedures for suspending or terminating the  
1213 registration of dispensary agents and cultivation facility agents  
1214 who violate the provisions of this section or the rules adopted  
1215 under this section, procedures for appealing penalties, and a  
1216 schedule of penalties; and

1217                           (iv) Any other matters necessary for the  
1218 division's fair, impartial, stringent, and comprehensive  
1219 administration of its duties under this section.



1220 (d) (i) The division must conduct criminal background  
1221 checks in order to carry out the provisions of subsection (9);

1222 (ii) The division must require each applicant for  
1223 a dispensary agent license or cultivation facility agent license  
1224 to apply for or authorize the division to obtain state and  
1225 national criminal background checks to be conducted by the Bureau  
1226 of Investigation of the Mississippi Department of Public Safety  
1227 and the Federal Bureau of Investigation;

1228 (iii) The criminal background checks must conform  
1229 to the applicable federal standards and must include the taking of  
1230 fingerprints;

1231 (iv) The applicant must authorize the release of  
1232 the criminal background checks to the division and is responsible  
1233 for the payment of any fee associated with the criminal background  
1234 checks; and

1235 (v) Upon completion of the criminal background  
1236 checks, the Mississippi Department of Public Safety must forward  
1237 to the division all information obtained concerning the applicant.

1238 (e) Except as provided herein, the division must issue  
1239 each dispensary agent and cultivation facility agent a registry  
1240 identification card within ten (10) days of receipt of:

1241 (i) The person's name, address, and date of birth;  
1242 and

1243 (ii) A reasonable fee in an amount established by  
1244 rule of the division.



1245 (f) (i) The division shall not issue a registry  
1246 identification card to a dispensary agent or cultivation facility  
1247 agent who has been convicted of an excluded felony offense;

1248 (ii) The division must conduct a criminal  
1249 background check as described in paragraph (d) of this subsection  
1250 (9) of each dispensary agent or cultivation facility agent in  
1251 order to carry out this provision; and

1252 (iii) The division must notify the dispensary or  
1253 cultivation facility in writing of the reason for denying the  
1254 registry identification card.

1255 (g) (i) A registry identification card for a  
1256 dispensary agent or cultivation facility agent expires on June 30  
1257 of each calendar year and is renewable on or before June 30 of  
1258 each calendar year for the fiscal year beginning July 1; and

1259 (ii) A registry identification card of a  
1260 dispensary agent or cultivation facility agent expires upon  
1261 notification to the division by a dispensary or cultivation  
1262 facility that the person ceases to work at the dispensary or  
1263 cultivation facility.

1264 (h) The division may charge a reasonable fee as  
1265 established by rule for the issuance of a new, renewal or  
1266 replacement registry identification card.

1267 (i) (i) The division may revoke the registry  
1268 identification card of a dispensary agent or cultivation facility  
1269 agent who knowingly violates any provision of this section, and



1270 the cardholder is subject to any other penalties established by  
1271 law for the violation; and

1272 (ii) The division may revoke or suspend the  
1273 dispensary license or cultivation facility license of a dispensary  
1274 or cultivation facility that the division determines knowingly  
1275 aided or facilitated a violation of any provision of this section,  
1276 and the licenseholder is subject to any other penalties  
1277 established by law for the violation.

1278 (j) The division may collect fines or fees for any  
1279 violation of a rule adopted under this section.

1280 (10) **Dispensary and cultivation facility inspections and**  
1281 **requirements.** (a) Dispensaries and cultivation facilities are  
1282 highly regulated by the state, and a dispensary and cultivation  
1283 facility is therefore subject to reasonable inspection by the  
1284 Alcoholic Beverage Control Division;

1285 (b) (i) This subsection (10) governs the operations of  
1286 dispensaries and cultivation facilities;

1287 (ii) A dispensary and a cultivation facility must  
1288 be an entity incorporated in the State of Mississippi;

1289 (iii) A dispensary and cultivation facility must  
1290 implement appropriate security measures to deter and prevent  
1291 unauthorized entrance into areas containing marijuana and the  
1292 theft of marijuana;

1293 (iv) A dispensary and cultivation facility must  
1294 have procedures in place to ensure accurate recordkeeping;



1295 (v) Each dispensary must keep the following  
1296 records, for at least three (3) years:

1297 1. Records of the disposal of marijuana that  
1298 is not distributed by the dispensary to qualifying patients; and

1299 2. A record of each transaction, including  
1300 the amount of marijuana dispensed, the amount of compensation, and  
1301 the registry identification number of the qualifying patient or  
1302 designated caregiver;

1303 (vi) Each dispensary and cultivation facility  
1304 must:

1305 1. Conduct an initial comprehensive inventory  
1306 of all marijuana, including, without limitation, usable marijuana  
1307 available for dispensing, mature marijuana plants, and seedlings  
1308 at each authorized location on the date the dispensary first  
1309 dispenses usable marijuana or the cultivation facility first  
1310 cultivates, prepares, manufactures, processes, or packages usable  
1311 marijuana; and

1312 2. Conduct a biannual comprehensive inventory  
1313 of all marijuana, including, without limitation, usable marijuana  
1314 available for dispensing, mature marijuana plants, and seedlings  
1315 at each authorized location;

1316 (vii) All cultivation of marijuana must take place  
1317 in an enclosed, locked facility;

1318 (viii) 1. A qualifying patient or designated  
1319 caregiver acting on behalf of a qualifying patient shall not be



1320 dispensed more than a total of two and one-half (2-1/2) ounces of  
1321 usable marijuana during a fourteen-day period;

1322                   2. A dispensary or a dispensary agent may not  
1323 dispense more than a total of two and one-half (2-1/2) ounces of  
1324 usable marijuana to either a qualifying patient or designated  
1325 caregiver acting on behalf of a qualifying patient during a  
1326 fourteen-day period;

1327                   3. Each time a dispensary agent dispenses  
1328 usable marijuana to a qualifying patient or designated caregiver,  
1329 he or she must verify that the dispensing of usable marijuana  
1330 would not cause the qualifying patient or designated caregiver to  
1331 receive more usable marijuana than is permitted in a fourteen-day  
1332 period;

1333                   4. Each time usable marijuana is dispensed,  
1334 the dispensary agent must:

1335                   a. Record the date the usable marijuana  
1336 was dispensed and the amount dispensed; and

1337                   b. Notify the Department of Health in  
1338 the manner required by the department;

1339                   5. The department must maintain a database  
1340 that enables a dispensary to verify that dispensing usable  
1341 marijuana to a qualifying patient or designated caregiver will not  
1342 cause the qualifying patient or designated caregiver to exceed the  
1343 amount allowed by law;



1344                   6. All records must be kept according to the  
1345 registry identification number of the qualifying patient or  
1346 designated caregiver;

1347                   7. It is the specific intent of this section  
1348 that no qualifying patient or designated caregiver acting on  
1349 behalf of a qualifying patient be dispensed more than a total of  
1350 two and one-half (2-1/2) ounces of usable marijuana during a  
1351 fourteen-day period whether the usable marijuana is dispensed from  
1352 one or any combination of dispensaries;

1353                   (ix) The dispensary records with patient  
1354 information shall be treated as confidential records that are  
1355 exempt from the Mississippi Public Records Act of 1983, Section  
1356 25-61-1 et seq.

1357           (11) **Immunity for dispensaries and cultivation facilities.**

1358           (a) A dispensary, cultivation facility, transporter, distributor,  
1359 or processor is not subject to the following:

1360                   (i) Prosecution for the acquisition, possession,  
1361 cultivation, processing, preparation, manufacture, delivery,  
1362 transfer, transport, sale, supply, or dispensing of marijuana and  
1363 related supplies in accordance with the provisions of this section  
1364 and any rule adopted under this section;

1365                   (ii) Inspection, except under subsection (10) of  
1366 this section or upon a search warrant issued by a court or  
1367 judicial officer;





1368 (iii) Seizure of marijuana, except upon any order  
1369 issued by a court or judicial officer and with due process of law;  
1370 or

1371 (iv) Imposition of a penalty or denial of a right  
1372 or privilege, including, without limitation, imposition of a civil  
1373 penalty or disciplinary action by a business, occupational, or  
1374 professional licensing board or entity, solely for acting in  
1375 accordance with this section.

1376 (b) (i) A dispensary agent, cultivation facility  
1377 agent, transporter agent, distributor agent, or processor agent  
1378 shall not be subject to arrest, prosecution, search, seizure, or  
1379 penalty in any manner or denied any right or privilege, including,  
1380 without limitation, civil penalty or disciplinary action by a  
1381 business, occupational, or professional licensing board or entity,  
1382 solely for working for or with a dispensary, cultivation facility,  
1383 transporter, distributor, or processor to engage in acts permitted  
1384 by this section;

1385 (ii) 1. A dispensary agent, cultivation facility  
1386 agent, or processor agent may possess and manufacture marijuana at  
1387 the dispensary, cultivation facility location, or processor  
1388 location or locations for which the dispensary agent, cultivation  
1389 facility agent, or processor agent is registered or when  
1390 transferring marijuana under this section;

1391 2. a. A dispensary agent who is a volunteer  
1392 may possess and manufacture marijuana at a dispensary location;



1393                                   b. A dispensary agent who is a volunteer  
1394 may not dispense or transport marijuana;

1395                                   (iii) A cultivation facility and processor must  
1396 label the marijuana that is moved between the cultivation facility  
1397 or processor and a dispensary, other cultivation facility, or  
1398 processor with a trip ticket that identifies the cultivation  
1399 facility by identification number, the time, date, origin, and  
1400 destination of the marijuana being transported, and the amount and  
1401 form of marijuana that is being transported; and

1402                                   (iv) A transporter agent or distributor agent may  
1403 possess marijuana at any location while the transporter agent or  
1404 distributor agent is transferring marijuana from a dispensary,  
1405 cultivation facility, or processor to another dispensary,  
1406 cultivation facility, or processor.

1407                                   (c) Importation of seeds, cuttings, clones, or plants  
1408 by a dispensary or cultivation facility shall not be prosecuted in  
1409 the courts of this state.

1410                                   (12) **Prohibitions for dispensaries.** (a) A dispensary may  
1411 not dispense, deliver, or otherwise transfer marijuana to a person  
1412 other than a qualifying patient or designated caregiver; or to a  
1413 transporter, distributor, or processor to operate to the extent of  
1414 the license of the transporter, distributor, or processor.

1415                                   (b) (i) Except as provided in subsection (3) of this  
1416 section, the Alcoholic Beverage Control Division must immediately  
1417 revoke the registry identification card of a dispensary agent who



1418 has dispensed, delivered, or otherwise transferred marijuana to a  
1419 person other than a qualifying patient or designated caregiver,  
1420 and that dispensary agent must be disqualified from serving as a  
1421 dispensary agent; and

1422 (ii) A dispensary employing a dispensary agent  
1423 whose registry identification card is revoked under subparagraph  
1424 (i) of this paragraph (b) is not subject to penalties, including,  
1425 without limitation, the revocation of its license, for the actions  
1426 of a dispensary agent unless the dispensary knowingly aided or  
1427 facilitated the violation.

1428 (13) **Prohibitions for cultivation facilities.** (a) A  
1429 cultivation facility may sell marijuana plants, seeds, and usable  
1430 marijuana only to a dispensary, other cultivation facility, or  
1431 processor; and

1432 (b) A cultivation facility may employ a transporter or  
1433 a distributor to transfer marijuana from the cultivation facility  
1434 to a dispensary, other cultivation facility, or processor.

1435 (14) **Local regulation.** (a) This section does not prohibit  
1436 a municipality or county of this state from enacting reasonable  
1437 zoning regulations applicable to dispensaries or cultivation  
1438 facilities, if those zoning regulations are the same as those for  
1439 a licensed retail pharmacy; and

1440 (b) This subsection (14) does not allow a municipality  
1441 or county to prohibit the operation of any dispensaries or  
1442 cultivation facilities in the municipality or county.



1443           (15) **Prohibited conduct for physicians.** A physician must  
1444 not:

1445                   (a) Accept, solicit, or offer any form of pecuniary  
1446 remuneration from or to a dispensary or cultivation facility;  
1447 however, this does not prohibit a physician who is also a  
1448 qualifying patient from purchasing usable marijuana from a  
1449 dispensary;

1450                   (b) Offer a discount or other thing of value to a  
1451 qualifying patient who uses or agrees to use a particular  
1452 dispensary;

1453                   (c) Examine a patient for purposes of diagnosing a  
1454 qualifying medical condition at a dispensary; or

1455                   (d) Hold an economic interest in a dispensary or  
1456 cultivation facility if the physician certifies the qualifying  
1457 medical condition of a patient for medical use of marijuana.

1458           (16) **Failure to adopt rules or issue registry identification**  
1459 **cards or licenses.** If the Department of Health, Alcoholic  
1460 Beverage Control Division, or Medical Marijuana Commission fails  
1461 to adopt rules to implement this section within the time  
1462 prescribed or fails to issue the minimum number of dispensary  
1463 licenses or cultivation facility licenses, any person who would be  
1464 a qualifying patient under this section may commence a mandamus  
1465 action in the Circuit Court of the First Judicial District of  
1466 Hinds County, to compel the department, division, or commission to  
1467 perform the actions mandated under the provisions of this section.



1468           (17) **Taxation and distribution of proceeds.** (a) (i) The  
1469 sale of usable marijuana is subject to all state and local sales  
1470 taxes at the same rate as other tangible personal property; and

1471                       (ii) The sale of usable marijuana is also subject  
1472 to the Mississippi Medical Marijuana Special Privilege Tax Act of  
1473 2019, or its successor.

1474           (b) The state sales and special privilege tax revenues  
1475 received by the state from the sale of usable marijuana under this  
1476 section must be distributed as follows:

1477                       (i) All monies received as part of this section  
1478 are designated as special revenue and the funds collected must be  
1479 deposited in the State Treasury and credited to the Mississippi  
1480 Medical Marijuana Implementation and Operations Fund;

1481                       (ii) All monies received as part of this section  
1482 before the effective date of this section must be immediately  
1483 transferred to the Mississippi Medical Marijuana Implementation  
1484 and Operations Fund upon the effective date of this section;

1485                       (iii) In order for the Executive Director of the  
1486 Department of Finance and Administration to determine the expenses  
1487 that state agencies incurred due to the passage of this section,  
1488 the following state entities must submit a report to the  
1489 Department of Finance and Administration no later than May 1 of  
1490 each year of the projected expenses for the next fiscal year,

1491 including, without limitation, expenses as set out in subparagraph  
1492 (iv) of this paragraph (b):



1493 1. The Alcoholic Beverage Control Division of  
1494 the Department of Revenue;

1495 2. The Department of Health;

1496 3. The Medical Marijuana Commission; and

1497 4. Any other state agency that incurs  
1498 implementation, administration, or enforcement expenses related to  
1499 this section;

1500 (iv) 1. From time to time, the Executive Director  
1501 of the Department of Finance and Administration must transfer on  
1502 his or her books and those of the State Treasurer and the State  
1503 Auditor the amounts as set out in subparagraph (iii) of this  
1504 paragraph (b) or so much as is available in proportion to the  
1505 amount identified by each agency in subparagraph (iii) of this  
1506 paragraph (b) from the Mississippi Medical Marijuana  
1507 Implementation and Operations Fund to the credit of the Alcoholic  
1508 Beverage Control Division of the Department of Revenue, the  
1509 Department of Health, the Medical Marijuana Commission Fund, and  
1510 any other fund necessary to the implementation, administration, or  
1511 enforcement of this section to pay for or reimburse personal  
1512 services, operating expenses, professional fees, equipment,  
1513 monitoring, auditing, and other miscellaneous expenses of this  
1514 section.

1515 2. At the end of each fiscal year, any  
1516 unobligated balances of the amounts transferred must be deducted



1517 from the amount transferred in the next fiscal year as authorized  
1518 in item 1 of this subparagraph (iv).

1519                   3. Any unanticipated expenses or  
1520 expenses over the amount transferred may be added from time to  
1521 time to the transfer amount authorized in item 1 of this  
1522 subparagraph (iv).

1523                   4. The Department of Finance and  
1524 Administration must report at the end of the fiscal year to the  
1525 Joint Legislative Budget Committee if during a legislative  
1526 session, the following information:

1527                   a. The total annual amount received as a  
1528 result of this section;

1529                   b. The amount transferred to each  
1530 agency; and

1531                   c. Copies of the report submitted to the  
1532 Department of Finance and Administration identifying estimated  
1533 expenses as set out in subparagraph (iii) of this paragraph (b).

1534                   (c) After the transfer described in paragraph (b) of  
1535 this subsection (17), the amounts remaining in the Mississippi  
1536 Medical Marijuana Implementation and Operations Fund must be  
1537 distributed one hundred percent (100%) to the General Fund.

1538                   (d) An entity receiving a grant of state sales tax  
1539 revenue under paragraph (b) of this subsection (17) may make one  
1540 or more successive grant applications for the same project or  
1541 projects.



1542           (18) **Costs of administration and regulation.** (a) The  
1543 following funds must be used by the Department of Health to  
1544 perform its duties under this section:

1545                   (i) State sales tax revenues received under  
1546 subsection (17) of this section;

1547                   (ii) 1. The revenue generated from fees,  
1548 penalties, and other assessments of the department provided for by  
1549 this section, including, without limitation:

1550                           a. Registry identification card  
1551 application and renewal fees; and

1552                           b. Fees for replacement registry  
1553 identification cards.

1554                           2. Revenue generated from fees, penalties,  
1555 and other assessments under this section must be used solely for  
1556 the performance of the department's duties under this section and  
1557 must be used for no other purpose;

1558                   (iii) Private donations, if such funds are  
1559 available; and

1560                   (iv) Other appropriations by the Legislature.

1561           (b) The following funds must be used by the Alcoholic  
1562 Beverage Control Division to perform its duties under this  
1563 section:

1564                   (i) State sales tax revenues received under  
1565 subsection (17) of this section;





1566 (ii) 1. The revenue generated from fees,  
1567 penalties, and other assessments of the division provided for by  
1568 this section; and

1569 2. Revenue generated from fees, penalties,  
1570 and other assessments of the division under this section must be  
1571 used solely for the performance of the division's duties under  
1572 this section and must be used for no other purpose;

1573 (iii) Private donations, if such funds are  
1574 available; and

1575 (iv) Other appropriations by the Legislature.

1576 (c) The following funds must be used by the Medical  
1577 Marijuana Commission to perform its duties under this section:

1578 (i) State sales tax revenues received under  
1579 subsection (17) of this section;

1580 (ii) The revenue generated from fees, penalties,  
1581 and other assessments of the commission provided for by this  
1582 section, including, without limitation, dispensary and cultivation  
1583 facility application fees, licensing fees, and renewal fees;

1584 (iii) Private donations, if such funds are  
1585 available; and

1586 (iv) Other appropriations by the Legislature.

1587 (19) **Medical Marijuana Commission; creation.** (a) (i)

1588 There is created a Medical Marijuana Commission within the  
1589 Department of Finance and Administration to determine the  
1590 qualifications for receiving a license to operate a dispensary or



1591 a license to operate a cultivation facility and the awarding of  
1592 licenses;

1593 (ii) Each member of the commission shall serve a  
1594 term of four (4) years;

1595 (iii) The commission shall consist of five (5)  
1596 members as follows:

1597 1. Two (2) members appointed by the President  
1598 Pro Tempore of the Senate;

1599 2. Two (2) members appointed by the Speaker  
1600 of the House of Representatives; and

1601 3. One (1) member appointed by the Governor;

1602 (iv) Vacancies on the commission shall be filled  
1603 in the manner of the original appointment;

1604 (v) The commission must select one (1) of its  
1605 members as chair; and

1606 (vi) An affirmative vote of a majority of a quorum  
1607 present shall be necessary to transact business.

1608 (b) (i) One (1) of the initial members appointed by  
1609 the President Pro Tempore of the Senate shall serve a term of two  
1610 (2) years and one (1) of the initial members appointed by the  
1611 President Pro Tempore of the Senate shall serve a term of four (4)  
1612 years; the initial members appointed by the President Pro Tempore  
1613 of the Senate shall draw lots to determine which member shall  
1614 serve a term of two (2) years;



1615 (ii) One (1) of the initial members appointed by  
1616 the Speaker of the House of Representatives shall serve a term of  
1617 two (2) years and one (1) of the initial members appointed by the  
1618 Speaker of the House of Representatives shall serve a term of four  
1619 (4) years; the initial members appointed by the Speaker of the  
1620 House of Representatives shall draw lots to determine which member  
1621 shall serve a term of two (2) years;

1622 (iii) The initial member appointed by the Governor  
1623 shall serve a term of four (4) years; and

1624 (iv) All subsequent appointments to the commission  
1625 shall be for a term of four (4) years.

1626 (c) A member of the commission must be:

1627 (i) A citizen of the United States;

1628 (ii) A resident of the State of Mississippi for at  
1629 least ten (10) years preceding his or her appointment;

1630 (iii) A qualified elector;

1631 (iv) At least twenty-five (25) years of age; and

1632 (v) Have no economic interest in a dispensary or  
1633 cultivation facility.

1634 (d) (i) The commission, by a majority vote of the  
1635 total membership of the commission cast during its first regularly  
1636 scheduled meeting of each calendar year, may authorize payment to  
1637 its members of a stipend not to exceed Eighty-five Dollars  
1638 (\$85.00) per day for each meeting attended or for any day while  
1639 performing any proper business of the commission;



1640 (ii) Members of the commission shall receive no  
1641 other compensation, expense reimbursement, or in-lieu-of payments.

1642 (e) (i) The commission may employ staff necessary to  
1643 assist in the performance of its duties under this section; and

1644 (ii) The Alcoholic Beverage Control Division shall  
1645 provide staff for the commission if the commission does not have  
1646 employees available for that purpose.

1647 (f) (i) Initial members of the commission must be  
1648 appointed within thirty (30) days of the effective date of this  
1649 section; and

1650 (ii) The President Pro Tempore of the Senate shall  
1651 call the first meeting of the commission, which shall occur within  
1652 forty-five (45) days of the effective date of this section.

1653 (20) **No implied repeal.** (a) By adoption of this section,  
1654 there is no implied repeal of the existing Mississippi laws  
1655 criminalizing possession of marijuana for purposes not specified  
1656 in this section.

1657 (b) This section acknowledges that marijuana use,  
1658 possession, and distribution for any purpose remains illegal under  
1659 federal law until such time as it may be decriminalized under  
1660 federal law.

1661 (21) **Limitation on growing.** This section:

1662 (a) Authorizes the growing of marijuana at a dispensary  
1663 or cultivation facility that is properly licensed with the state;  
1664 and



1665 (b) Does not authorize a qualifying patient, designated  
1666 caregiver, or other person to grow marijuana.

1667 (22) **Severability.** If any provision or portion of this  
1668 section or the application thereof to any person or circumstance  
1669 is held invalid, the invalidity shall not affect any other  
1670 provisions or application of this section that can be given effect  
1671 without the invalid provisions or applications, and to this end  
1672 the provisions of this section are declared to be severable.

1673 (23) **Amendment by Legislature.** (a) Except as provided in  
1674 paragraph (b) of this subsection (23), the Legislature may proceed  
1675 under Article 15, Section 273, to amend Section 290 of the  
1676 Constitution of 1890 if the amendments are germane to this section  
1677 and consistent with its policy and purposes;

1678 (b) The Legislature shall not amend the following  
1679 provisions of this section:

1680 (i) Subsection (3) (a), (b) and (c) of this  
1681 section;

1682 (ii) Subsection (8) (h), (i) and (j) of this  
1683 section; and

1684 (iii) This subsection (23).

1685 (24) **Licensure for transporters, distributors, and**  
1686 **processors.** (a) (i) The Medical Marijuana Commission must  
1687 license transporters, distributors, and processors; and



1688                   (ii) The Alcoholic Beverage Control Division must  
1689 administer and enforce the provisions of this subsection (24)  
1690 concerning transporters, distributors, and processors.

1691                   (b) A person is not eligible to be an owner, board  
1692 member, or officers of a transporter, distributor, or processor if  
1693 the person:

1694                   (i) Has been convicted of an excluded felony  
1695 offense;

1696                   (ii) Has previously been an owner of a dispensary,  
1697 cultivation facility, transporter, distributor, or processor that  
1698 has had a license revoked; and

1699                   (iii) Is under twenty-one (21) years of age.

1700                   (c) The commission may conduct a criminal records check  
1701 in order to carry out this subsection (24).

1702                   (d) (i) A transporter license, distributor license,  
1703 and processor license expires one (1) year after the date of  
1704 issuance; and

1705                   (ii) The commission must issue a renewal license  
1706 within ten (10) days to any entity that complies with the  
1707 requirements contained in this section, including, without  
1708 limitation, the payment of a renewal fee.

1709                   (e) The commission may charge a reasonable fee as  
1710 established by rule for the issuance of an initial license and a  
1711 renewal license.



1712 (f) (i) 1. A transporter or distributor licensed  
1713 under this subsection (24) may:

1714 a. Acquire, possess, deliver, transfer,  
1715 transport, or distribute marijuana to a dispensary, cultivation  
1716 facility, or processor; and

1717 b. Receive compensation for providing  
1718 services allowed by this subsection (24).

1719 2. A transporter or distributor licensed  
1720 under this subsection (24) must not grow, manufacture, process,  
1721 prepare, supply, or dispense marijuana.

1722 (ii) 1. A processor licensed under this  
1723 subsection (24) may:

1724 a. Acquire, possess, manufacture,  
1725 process, prepare, deliver, transport, and supply marijuana to a  
1726 dispensary or cultivation facility; and

1727 b. Receive compensation for providing  
1728 services allowed by this subsection (24).

1729 2. A processor licensed under this subsection  
1730 (24) must not grow or dispense marijuana.

1731 (g) The division may make reasonable inspections on a  
1732 transporter, distributor, and processor to ensure that the  
1733 transporter, distributor, and processor:

1734 (i) Is an entity incorporated in the State of  
1735 Mississippi;



1736 (ii) Has implemented appropriate security measures  
1737 to deter and prevent unauthorized entrance into areas containing  
1738 marijuana and the theft of marijuana;

1739 (iii) Conducts an initial comprehensive inventory  
1740 of all marijuana and a biannual comprehensive inventory of all  
1741 marijuana;

1742 (iv) Records each transaction between the  
1743 transporter, distributor, or processor and a dispensary,  
1744 cultivation facility, or another processor and maintains the  
1745 records for at least three (3) years; and

1746 (v) Has adopted procedures to ensure accurate  
1747 recordkeeping.

1748 (h) (i) The commission must adopt rules governing the  
1749 applications for a transporter license, distributor license, or  
1750 processor license;

1751 (ii) The division must adopt rules governing:

1752 1. Oversight requirements for  
1753 transporters, distributors, and processors;

1754 2. Recordkeeping requirements for  
1755 transporters, distributors, and processors;

1756 3. Security requirements for  
1757 transporters, distributors, and processors;

1758 4. Personnel requirements for  
1759 transporters, distributors, and processors;





1760 5. The manufacture, processing,  
1761 packaging, and dispensing of usable marijuana to qualifying  
1762 patients and designated caregivers;

1763 6. Procedures for suspending or  
1764 terminating the licenses of transporters, distributors, and  
1765 processors that violate the provisions of this section or the  
1766 rules adopted under this section, procedures for appealing  
1767 penalties, and a schedule of penalties;

1768 7. Procedures for inspections and  
1769 investigations of transporters, distributors, and processors;

1770 8. Advertising restrictions for  
1771 transporters, distributors, and processors; and

1772 9. Any other matters necessary to the  
1773 fair, impartial, stringent, and comprehensive administration of  
1774 the duties of the division under this subsection.

1775 (25) **Registration and certification of transporter agents,**  
1776 **distributor agents, and processor agents.** (a) The Alcoholic  
1777 Beverage Control Division must:

1778 (i) License transporter agents, distributor  
1779 agents, and processor agents; and

1780 (ii) Administer and enforce the provisions of this  
1781 subsection (25) concerning transporter agents, distributor agents,  
1782 and processor agents.

1783 (b) The division may conduct criminal records checks in  
1784 order to carry out this subsection (25).



1785 (c) Except as prohibited by paragraph (d)(i) of this  
1786 subsection, the division must issue each transporter agent,  
1787 distributor agent, and processor agent a registry identification  
1788 card within ten (10) days of receipt of:

1789 (i) The person's name, address, and date of birth  
1790 under this section; and

1791 (ii) A reasonable fee in an amount established by  
1792 rule for the division.

1793 (d) (i) The division shall not issue a registry  
1794 identification card to a transporter agent, distributor agent, or  
1795 processor agent who has been convicted of an excluded felony  
1796 offense;

1797 (ii) The division may conduct a criminal  
1798 background check of each transporter agent, distributor agent, and  
1799 processor agent in order to carry out this paragraph (d); and

1800 (iii) The division must notify the transporter,  
1801 distributor, or processor in writing of the reason for denying the  
1802 registry identification card.

1803 (e) (i) A registry identification card for a  
1804 transporter agent, distributor agent, or processor agent expires  
1805 one (1) year after the date of issuance; and

1806 (ii) A registry identification card of a  
1807 transporter agent, distributor agent, or processor agent expires  
1808 upon notification to the division by a dispensary or cultivation



1809 facility that the person ceases to work at the transporter,  
1810 distributor, or processor.

1811 (f) The division may charge a reasonable fee as  
1812 established by rule for the issuance of a new, renewal, or  
1813 replacement registry identification card.

1814 (g) (i) The division may revoke the registry  
1815 identification card of a transporter agent, distributor agent, or  
1816 processor agent who knowingly violates any provision of this  
1817 section, and the cardholder is subject to any other penalties  
1818 established by law for the violation; and

1819 (ii) The division may revoke or suspend the  
1820 transporter license, distributor license, or processor license of  
1821 a transporter, distributor, or processor that the division  
1822 determines knowingly aided or facilitated a violation of any  
1823 provision of this section, and the cardholder is subject to any  
1824 other penalties established by law for the violation.

1825 (h) The division must adopt rules governing:

1826 (i) The manner in which the division considers  
1827 applications for and renewals of registry identification cards for  
1828 transporter agents, distributor agents, and processor agents;

1829 (ii) The form and content of registration and  
1830 renewal applications for transporter agents, distributor agents,  
1831 and processor agents;

1832 (iii) Procedures for suspending or terminating the  
1833 registration of transporter agents, distributor agents, and



1834 processor agents who violate the provisions of this subsection  
1835 (25) or the rules adopted under this subsection (25), procedures  
1836 for appealing penalties, and a schedule of penalties; and

1837 (iv) Any other matters necessary for the fair,  
1838 impartial, stringent, and comprehensive administration of the  
1839 duties of the division under this subsection (25).

1840 BE IT FURTHER RESOLVED, That this proposed amendment must be  
1841 submitted by the Secretary of State to the qualified electors at  
1842 an election to be held on the first Tuesday after the first Monday  
1843 of November 2019, as provided by Section 273 of the Constitution  
1844 and by general law.

1845 BE IT FURTHER RESOLVED, That the explanation of this proposed  
1846 amendment for the ballot shall read as follows: "This proposed  
1847 constitutional amendment legalizes the medical use of marijuana in  
1848 the State of Mississippi."

