

By: Senator(s) Blackwell

To: Public Health and Welfare

SENATE BILL NO. 2857

1 AN ACT TO AMEND SECTION 41-137-39, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE ADDITIONAL AUTHORIZATIONS AND REQUIREMENTS RELATED TO
 3 PERFORMING BACKGROUND CHECKS AS PART OF THE MEDICAL CANNABIS ACT;
 4 TO AUTHORIZE THE DEPARTMENT OF HEALTH TO OBTAIN CRIMINAL RECORDS
 5 BACKGROUND CHECKS FROM THE MISSISSIPPI JUSTICE INFORMATION CENTER
 6 OF THE DEPARTMENT OF PUBLIC SAFETY AND THE F.B.I.; TO AUTHORIZE
 7 THE DEPARTMENT TO RECOUP ANY FEE ASSOCIATED WITH THE BACKGROUND
 8 CHECK; TO AMEND SECTION 41-137-47, MISSISSIPPI CODE OF 1972, TO
 9 PROVIDE ADDITIONAL MEASURES RELATED TO INVESTIGATION PROCEDURES BY
 10 LICENSING AGENCIES UNDER THE MEDICAL CANNABIS ACT; TO SET CERTAIN
 11 ADMINISTRATIVE HEARING PROCEDURES; TO AUTHORIZE THE LICENSING
 12 AGENCY TO RECOUP ANY FEE ASSOCIATED WITH THE INVESTIGATION OR
 13 HEARING PROCESS; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** Section 41-137-39, Mississippi Code of 1972, is
 16 amended as follows:

17 41-137-39. (1) (a) * * * The MDOH shall obtain criminal
 18 records background checks on all persons applying to become a
 19 licensee, an agent, or representative as defined herein, of a
 20 medical cannabis establishment. This shall include performing
 21 criminal records background checks on all potential employees,
 22 current employees, or representatives/agents of the MDOH Medical
 23 Cannabis Program. The required criminal history background



24 includes information provided by the Federal Bureau of
25 Investigation.

26 (b) For the purposes of this section, an applicant is
27 any person who registers with or applies for an initial medical
28 cannabis work permit, or a renewal of a medical cannabis work
29 permit. Such a person or applicant may also be defined as an
30 agent, an employee, a representative, etc. as further defined and
31 sometimes used interchangeably as referenced in this section.

32 (c) For purposes of this section, an agent is a person
33 who acts for or on behalf of, or who represents a medical cannabis
34 establishment while in the course of business or employment with
35 the Mississippi Medical Cannabis Program and may also be referred
36 to as an agent, a representative, or vice versa.

37 (d) Representative means a principal officer, owner of
38 ten percent (10%) or greater economic interest in a medical
39 cannabis establishment with direct or indirect interest, officer,
40 director, manager, employee, agent, volunteer, or other type
41 representative of a registered medical cannabis licensee
42 establishment.

43 (e) Principal officer means a person(s) who has
44 ultimate responsibility for implementing the decisions of a
45 cannabis testing facility or other such medical cannabis
46 establishment and includes, but are not necessarily limited to,
47 the Chief Executive Officer (CEO), Chief Administrative Office
48 (CAO), Chief Financial Officer, (CFO), as applicable. Elected or



49 appointed, the board as a whole creates agency policies and
50 oversees the agency's managerial positions.

51 (f) Board member means an individual on a medical
52 cannabis establishment's company or agency board which serves as
53 an organization's governing body.

54 (g) Principal owner means the primary owner of a
55 medical cannabis establishment, but often may be the sole owner.

56 (h) Any and every person/applicant seeking to become an
57 owner or principal owner, principal officer, or officer, board
58 member, director, manager, agent/representative, employee, care
59 giver, or volunteer of a medical cannabis establishment shall
60 apply for, or authorize the MDOH to obtain state and national
61 criminal background checks to be conducted by the Mississippi
62 Justice Information Center of the Department of Public Safety and
63 the Federal Bureau of Investigation.

64 (i) Such criminal background checks shall conform to
65 the applicable federal standards and shall include the taking of
66 fingerprints.

67 (j) Once the Mississippi Justice Information Center of
68 the Department of Public Safety completes a state level criminal
69 history background check, they will forward the fingerprints to
70 the Federal Bureau of Investigation for a national criminal
71 history background check.

72 (k) The person seeking to become an
73 agent/representative of a medical cannabis establishment shall



74 authorize the release of such criminal background check to the
75 MDOH and shall be responsible for the payment of any fee
76 associated with the criminal background checks.

77 (1) The Mississippi Justice Information Center of the
78 Department of Public Safety shall forward to the MDOH all
79 information obtained concerning the applicant. MDOH will not
80 disseminate the information and will only use such information as
81 required to fulfill the purposes of this act.

82 (2) A medical cannabis establishment may not employ any
83 person who:

84 (a) Was convicted of a disqualifying felony offense; or

85 (b) Is under twenty-one (21) years of age.

86 (3) The operating documents of a medical cannabis
87 establishment must include procedures for the oversight of the
88 medical cannabis establishment and procedures to ensure accurate
89 record keeping and adequate security measures.

90 (4) A medical cannabis establishment shall implement
91 appropriate security measures designed to deter and prevent the
92 theft of medical cannabis and unauthorized entrance into areas
93 containing medical cannabis.

94 (5) All cultivation, harvesting, processing and packaging of
95 medical cannabis must take place in an enclosed, locked and secure
96 facility with a physical address provided to the MDOH during the
97 licensing and registration process. The facility shall be
98 equipped with locks or other security devices that permit access



99 only by agents of the medical cannabis establishment, emergency
100 personnel or adults who are twenty-one (21) years of age and older
101 and who are accompanied by medical cannabis establishment agents.

102 (6) No medical cannabis establishment other than a cannabis
103 processing facility or cannabis research facility may produce
104 cannabis concentrates, cannabis extractions, or other cannabis
105 products.

106 (7) A medical cannabis establishment may not share office
107 space with or refer patients to a practitioner.

108 (8) Medical cannabis establishments are subject to
109 inspection by the MDOR and MDOH during business hours.

110 (9) Before medical cannabis may be dispensed to a
111 cardholder, a dispensary agent must:

112 (a) Require that the individual present a registry
113 identification card;

114 (b) Make a diligent effort to verify that the registry
115 identification card presented to the dispensary is valid;

116 (c) Make a diligent effort to verify that the person
117 presenting the registry identification card is the person
118 identified on the registry identification card presented to the
119 dispensary agent; and

120 (d) Not believe that the amount of medical cannabis
121 dispensed would cause the person to possess more than the
122 allowable amount of medical cannabis.



123 (10) A medical cannabis establishment shall not sell more
124 than the allowable amount of medical cannabis to a cardholder. A
125 resident cardholder shall not obtain more than a total of six (6)
126 MMCEUs of allowable medical cannabis in a week from a dispensary
127 or a combination of dispensaries. A resident cardholder shall not
128 obtain more than a total of twenty-four (24) MMCEUs of allowable
129 medical cannabis in thirty (30) days from a dispensary or a
130 combination of dispensaries.

131 The possession limit for resident cardholders of the
132 allowable amount of medical cannabis shall be a total of
133 twenty-eight (28) MMCEUs. There shall not be a possession limit
134 on nonconsumable medical cannabis, including, but not limited to,
135 suppositories, ointments, soaps, and lotions or other topical
136 agents.

137 (11) For purposes of this chapter, total THC is defined as
138 THCA multiplied by .877 plus THC Delta 9 and all other
139 psychoactive forms or isomers of THC added together. A medical
140 cannabis establishment shall not sell cannabis flower or trim that
141 has a potency of greater than thirty percent (30%) total THC. A
142 medical cannabis dispensary shall not sell cannabis tinctures,
143 oils or concentrates that have a potency of greater than sixty
144 percent (60%) total THC. Cannabis products that have a potency of
145 over thirty percent (30%) total THC shall be clearly labeled as
146 "extremely potent." Edible cannabis products, including food or
147 drink products, that have been combined with usable cannabis or



148 cannabis products shall be physically demarked and labeled with a
149 clear determination of how much total THC is in a single-serving
150 size and how much THC is in the entire package.

151 A medical cannabis product shall contain a notice of harm
152 regarding the use of cannabis products. Edible cannabis products
153 shall be homogenized to ensure uniform disbursement of
154 cannabinoids throughout the product. All molded edible cannabis
155 products shall be presented in the form of geometric shapes and
156 shall not be molded to contain any images or characters designed
157 or likely to appeal to minors, such as cartoons, toys, animals or
158 children.

159 (12) A dispensary may not dispense more than the allowable
160 amount of cannabis to a registered qualifying patient or a
161 nonresident cardholder, directly or via a registered designated
162 caregiver. Dispensaries shall ensure compliance with this
163 limitation by maintaining internal, confidential records that
164 include records specifying how much medical cannabis is being
165 dispensed to the registered qualifying patient or nonresident
166 cardholder and whether it was dispensed directly to a registered
167 qualifying patient, nonresident cardholder or to the registered
168 designated caregiver.

169 (13) A nonresident cardholder shall not obtain more than a
170 total of six (6) MMCEUs of allowable medical cannabis in a week
171 from a dispensary or a combination of dispensaries. A nonresident
172 cardholder shall not obtain more than a total of twelve (12)



173 MMCEUs of allowable cannabis from a dispensary or a combination of
174 dispensaries in a fifteen-day period.

175 (14) A nonresident may apply to receive a nonresident
176 registry identification card up to thirty (30) days before
177 arriving in Mississippi. A nonresident registry identification
178 card shall be valid for fifteen (15) days. After the expiration
179 of the card, a nonresident may apply for a renewal of the card and
180 may be granted another card which shall be valid for another
181 fifteen-day period. A nonresident registry identification card
182 shall only be valid, at a maximum, for two (2) separate periods of
183 fifteen (15) days in a three-hundred-sixty-five-day period. An
184 applicant may indicate on his or her application the specific time
185 period that he or she wishes for the card to be valid. The
186 possession limit of the allowable amount of medical cannabis for
187 nonresident cardholders shall be fourteen (14) MMCEUs.

188 (15) A medical cannabis dispensary agent or employee shall
189 not issue a written certification. Employees and agents of a
190 medical cannabis dispensary shall complete at least eight (8)
191 hours of continuing education in medical cannabis as regulated by
192 the MDOR in order to be certified to work at a medical cannabis
193 dispensary. After the first year of employment, these employees
194 shall complete five (5) hours of continuing education in medical
195 cannabis annually to maintain this certification.

196 (16) Notwithstanding any other provision to the contrary, a
197 patient with a debilitating medical condition who is between



198 eighteen (18) years to twenty-five (25) years of age is not
199 eligible for a medical cannabis registry identification card
200 unless two (2) practitioners from separate medical practices have
201 diagnosed the patient as having a debilitating medical condition
202 after an in-person consultation. One (1) of these practitioners
203 must be a physician or doctor of osteopathic medicine.

204 If one (1) of the recommending practitioners is not the
205 patient's primary care practitioner, the recommending practitioner
206 shall review the records of a diagnosing practitioner. The
207 requirement that the two (2) practitioners be from separate
208 medical practices does not apply if the patient is homebound or if
209 the patient had a registry identification card before the age of
210 eighteen (18).

211 (17) Except as otherwise provided in this section, a medical
212 cannabis establishment shall not allow an individual who is
213 younger than twenty-one (21) years old to enter the premises of
214 the establishment unless the individual possesses a registry
215 identification card and is accompanied by his or her legal
216 guardian.

217 (18) A medical cannabis establishment shall only purchase,
218 grow, cultivate, and use cannabis that is grown and cultivated in
219 this state. Any medical cannabis that is grown and cultivated in
220 this state shall not be transported outside of this state.

221 (19) Employees of all medical cannabis establishments shall
222 apply for a work permit with the MDOH and MDOR, as applicable,



223 before beginning employment with any establishment. The licensing
224 agency for the respective medical cannabis establishment may issue
225 work permits to these individuals. These licensing agencies shall
226 maintain a work registry of all applicants and work permits
227 issued. The fee for a work permit shall be Twenty-five Dollars
228 (\$25.00) and the permit shall be valid for five (5) years. Work
229 permits shall be the property of the employee and shall not be
230 transferable to other employees.

231 (20) For purposes of this subsection, "plant growth
232 regulator cannabis" shall mean a cannabis plant whose growth and
233 structure has been modified using plant growth hormones. A
234 cannabis cultivation facility shall not cultivate and a cannabis
235 dispensary shall not sell, transfer or provide for consumption
236 plant growth regulator cannabis.

237 (21) A medical cannabis dispensary shall only make sales to
238 cardholders inside the dispensary. A medical cannabis dispensary
239 shall not sell or otherwise convey medical cannabis to a
240 cardholder through the means of a drive-through, curbside delivery
241 or other delivery outside the premises of the dispensary. Any
242 topical cannabis product that is purchased by a dispensary from a
243 licensed processor, and that is not ingested by the liver, may be
244 sold to a cardholder or any person over the age of twenty-one (21)
245 years old who is not a cardholder. Such products shall be placed
246 in an area of the dispensary that does not require access with a
247 registry identification card.



248 (22) Any and all contracts or agreements entered into by the
249 MDOH and MDOR for information technology software, hardware,
250 and/or services for the purpose of implementing and/or operating
251 under the Mississippi Medical Cannabis Act shall include language
252 reasonably limiting the ability of the vendor to escalate the
253 ongoing cost of such software, hardware, and/or services during
254 the term of the contract, including any amendments and/or
255 extensions.

256 (23) The MDOR and MDOH shall not share the name, address or
257 personal data of a registry identification cardholder to any
258 federal government entity.

259 **SECTION 2.** Section 41-137-47, Mississippi Code of 1972, is
260 amended as follows:

261 41-137-47. (1) The licensing agency is authorized to
262 investigate, either on the basis of complaints filed with it or on
263 its own initiative through compliance visits, reviews or audits,
264 instances of suspected violations of any nature, including, but
265 not limited to:

266 (a) Performing the duties and requirements set forth
267 for licensees within the relevant statute and regulations;

268 (b) The providing of false information on an
269 application or renewal for a license, incident to a hearing, or
270 otherwise;

271 (c) The conviction of a licensee of a felony;

272 (d) The misappropriation of funds; and



273 (e) The inversion or diversion of medical cannabis or
274 medical cannabis products, or of any other matter reflecting
275 unfavorably upon the holder of a license under the act.

276 (2) On the basis of information developed during such an
277 investigation, the licensing agency may exercise any number of
278 compliance actions including:

279 (a) To revoke, suspend or refuse to renew any license
280 issued by the licensing agency;

281 (b) Deny an application for a license; or

282 (c) Reprimand, fine and/or take any other actions in
283 relation to a license, as the licensing agency may deem proper
284 under the circumstances.

285 * * *

286 (3) The licensing agency may deny the application of any
287 applicant who fails to meet the qualifications for obtaining such
288 license under this chapter or any rules and regulations under this
289 chapter.

290 (4) Whenever the results of such an investigation are filed,
291 the licensee may request an administrative hearing on the matter.
292 If a licensee or applicant wishes to appeal the licensing agency's
293 decision, the licensee or applicant shall file its administrative
294 appeal within twenty (20) days of receipt of the initial notice.
295 If such a hearing is requested, the licensing agency shall set a
296 day for a hearing and shall notify the licensee that on the day
297 fixed for hearing he or she may appear so that an administrative



298 hearing may take place. The licensing agency shall then conduct a
299 hearing on the record pursuant to the licensing agency's rules and
300 regulations governing such hearings, at which time the burden
301 shall be on the licensee or applicant to prove that the agency's
302 decision was:

303 (a) Unsupported by substantial evidence;

304 (b) Arbitrary or capricious;

305 (c) Beyond the power of the administrative agency to
306 make; or

307 (d) Violated some statutory or constitutional right of
308 the aggrieved party.

309 If the licensee or applicant fails to appeal the initial
310 notice within the prescribed time, the decision becomes final and
311 cannot be further appealed.

312 (5) In cases where violations of this chapter have been
313 substantiated, the licensing agency may assess a monetary penalty
314 or recoupment of costs for those reasonable costs that are
315 expended by the licensing agency in the investigation and conduct
316 of a proceeding for the compliance issue that is the subject
317 matter of the hearing, including, but not limited to, the costs of
318 process service, court reporters, expert witnesses and
319 investigations. The licensing agency shall determine the amount
320 of investigative fees and costs owed by a licensee based on an
321 itemized accounting after the investigation has been officially
322 completed and a final determination or action has been determined.



323 Upon final determination or action, the licensing agency shall
324 give to the licensee an itemized accounting of the investigative
325 fees and costs incurred. The licensing agency may recommend
326 denial of, or refusal to take final action to approve the renewal
327 of a licensee unless all investigative fees and costs have been
328 paid in full by the licensee.

329 (* * *6) The licensing agency shall provide its initial
330 notice of suspension, revocation, fine or other sanction by
331 personal delivery or mailing by certified mail, signature
332 required, to the medical cannabis establishment at the address on
333 the registration certificate. A suspension shall not be for a
334 longer period than six (6) months. The licensing agency shall
335 provide its initial notice of denial by personal delivery, mailing
336 by certified mail, signature required, or by electronic mail to
337 the applicant at the physical or electronic address listed in its
338 application.

339 (* * *7) A medical cannabis establishment may continue to
340 possess and cultivate cannabis as otherwise authorized to do so
341 under its license during a suspension, but it may not dispense,
342 transfer or sell cannabis.

343 (* * *8) The MDOH shall immediately revoke the registry
344 identification card of any cardholder who sells or otherwise
345 transfers medical cannabis to a person or other entity, and the
346 cardholder shall be disqualified from further participation in the
347 medical cannabis program under this chapter.



348 (* * *9) Except as otherwise provided in subsection
349 (* * *8) of this section, the MDOH may revoke the registry
350 identification card of any cardholder who knowingly commits a
351 violation of this chapter.

352 (* * *10) The hearing decision of the agency on a denial,
353 revocation, suspension or fine is a final decision of the
354 applicable agency subject to judicial review in accordance with
355 Section 41-137-59.

356 (* * *11) No license issued by the MDOH or MDOR shall be
357 transferred by the license holder to any other person or entity
358 except with the written consent of the applicable licensing
359 agency.

360 (* * *12) Any ongoing investigation by a licensing agency
361 under this section shall be considered confidential and exempt
362 from disclosure under the Mississippi Public Records Act of 1983,
363 Sections 25-61-1 through 25-61-17.

364 **SECTION 3.** This act shall take effect and be in force from
365 and after July 1, 2024.

