

By: Senator(s) Blackwell

To: Public Health and
WelfareSENATE BILL NO. 2857
(As Sent to Governor)

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 DELETE THE PROVISION OF LAW THAT PROHIBITS A RESIDENT
9 CARDHOLDER FROM OBTAINING MORE THAN A TOTAL OF SIX MMCEUS OF
10 ALLOWABLE MEDICAL CANNABIS IN A WEEK FROM A DISPENSARY OR A
11 COMBINATION OF DISPENSARIES; TO PROVIDE THAT THE DEPARTMENT OF
12 PUBLIC SAFETY AND THE DEPARTMENT OF HEALTH EACH MAY CHARGE AND
13 RETAIN A FEE FOR EACH APPLICANT; TO AMEND SECTION 41-137-47,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL MEASURES RELATED
15 TO INVESTIGATION PROCEDURES BY LICENSING AGENCIES UNDER THE
16 MEDICAL CANNABIS ACT; TO SET CERTAIN ADMINISTRATIVE HEARING
17 PROCEDURES; TO AUTHORIZE THE LICENSING AGENCY TO RECOUP ANY FEE
18 ASSOCIATED WITH THE INVESTIGATION OR HEARING PROCESS; AND FOR
19 RELATED PURPOSES.

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

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

23 41-137-39. (1) (a) * * * The MDOH shall obtain criminal
24 records background checks on all persons applying to become a
25 licensee, an agent, or representative as defined herein, of a
26 medical cannabis establishment. This shall include performing



27 criminal records background checks on all potential employees,
28 current employees, or representatives/agents of the MDOH Medical
29 Cannabis Program. The required criminal history background check
30 includes information provided by the Federal Bureau of
31 Investigation.

32 (b) * * * For the purposes of this section, an
33 applicant is any person who registers with or applies for an
34 initial medical cannabis work permit, or a renewal of a medical
35 cannabis work permit. Such a person or applicant may also be
36 defined as an agent, an employee, a representative, etc., as
37 further defined and sometimes used interchangeably as referenced
38 in this section.

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

44 (d) * * * Representative means a principal officer,
45 owner of ten percent (10%) or greater economic interest in a
46 medical cannabis establishment with direct or indirect interest,
47 officer, director, manager, employee, agent, volunteer, or other
48 type of representative of a registered medical cannabis licensee
49 establishment.

50 (e) * * * Principal officer means a person(s) who has
51 ultimate responsibility for implementing the decisions of a



cannabis testing facility or other such medical cannabis establishment and includes, but is not necessarily limited to, the Chief Executive Officer (CEO), Chief Administrative Office (CAO), Chief Financial Officer, (CFO), as applicable. Elected or appointed, the board as a whole creates agency policies and oversees the agency's managerial positions.

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

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

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

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

(j) Once the Mississippi Justice Information Center of the Department of Public Safety completes a state level criminal history background check, they will forward the fingerprints to



77 the Federal Bureau of Investigation for a national criminal
78 history background check.

79 (k) The person seeking to become an
80 agent/representative of a medical cannabis establishment shall
81 authorize the release of such criminal background checks to the
82 MDOH and shall be responsible for the payment of any fee that the
83 Mississippi Justice Information Center of the Department of Public
84 Safety or the MDOH charges to process fingerprint-based state and
85 national criminal background checks. The Department of Public
86 Safety and the MDOH each may charge and retain a fee not to exceed
87 Sixty Dollars (\$60.00) for each applicant.

88 (l) The Mississippi Justice Information Center of the
89 Department of Public Safety shall forward to the MDOH all
90 information obtained concerning the applicant. MDOH will not
91 disseminate the information and will only use such information as
92 required to fulfill the purposes of this act.

93 (2) A medical cannabis establishment may not employ any
94 person who:

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

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

97 (3) The operating documents of a medical cannabis
98 establishment must include procedures for the oversight of the
99 medical cannabis establishment and procedures to ensure accurate
100 record keeping and adequate security measures.



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

(5) All cultivation, harvesting, processing and packaging of medical cannabis must take place in an enclosed, locked and secure facility with a physical address provided to the MDOH during the licensing and registration process. The facility shall be equipped with locks or other security devices that permit access only by agents of the medical cannabis establishment, emergency personnel or adults who are twenty-one (21) years of age and older and who are accompanied by medical cannabis establishment agents.

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

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

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

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

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



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

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

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

(10) A medical cannabis establishment shall not sell more than the allowable amount of medical cannabis to a cardholder. * * * A resident cardholder shall not obtain more than a total of twenty-four (24) MMCEUs of allowable medical cannabis in thirty (30) days from a dispensary or a combination of dispensaries.

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

(11) For purposes of this chapter, total THC is defined as THCA multiplied by .877 plus THC Delta 9 and all other psychoactive forms or isomers of THC added together. A medical cannabis establishment shall not sell cannabis flower or trim that



has a potency of greater than thirty percent (30%) total THC. A medical cannabis dispensary shall not sell cannabis tinctures, oils or concentrates that have a potency of greater than sixty percent (60%) total THC. Cannabis products that have a potency of over thirty percent (30%) total THC shall be clearly labeled as "extremely potent." Edible cannabis products, including food or drink products, that have been combined with usable cannabis or cannabis products shall be physically demarked and labeled with a clear determination of how much total THC is in a single-serving size and how much THC is in the entire package.

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

(12) A dispensary may not dispense more than the allowable amount of cannabis to a registered qualifying patient or a nonresident cardholder, directly or via a registered designated caregiver. Dispensaries shall ensure compliance with this limitation by maintaining internal, confidential records that include records specifying how much medical cannabis is being dispensed to the registered qualifying patient or nonresident



cardholder and whether it was dispensed directly to a registered qualifying patient, nonresident cardholder or to the registered designated caregiver.

(13) A nonresident cardholder shall not obtain more than a total of six (6) MMCEUs of allowable medical cannabis in a week from a dispensary or a combination of dispensaries. A nonresident cardholder shall not obtain more than a total of twelve (12) MMCEUs of allowable cannabis from a dispensary or a combination of dispensaries in a fifteen-day period.

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

(15) A medical cannabis dispensary agent or employee shall not issue a written certification. Employees and agents of a medical cannabis dispensary shall complete at least eight (8)



hours of continuing education in medical cannabis as regulated by the MDOR in order to be certified to work at a medical cannabis dispensary. After the first year of employment, these employees shall complete five (5) hours of continuing education in medical cannabis annually to maintain this certification.

(16) Notwithstanding any other provision to the contrary, a patient with a debilitating medical condition who is between eighteen (18) years to twenty-five (25) years of age is not eligible for a medical cannabis registry identification card unless two (2) practitioners from separate medical practices have diagnosed the patient as having a debilitating medical condition after an in-person consultation. One (1) of these practitioners must be a physician or doctor of osteopathic medicine.

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

(17) Except as otherwise provided in this section, a medical cannabis establishment shall not allow an individual who is younger than twenty-one (21) years old to enter the premises of the establishment unless the individual possesses a registry



identification card and is accompanied by his or her legal guardian.

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

(19) Employees of all medical cannabis establishments shall apply for a work permit with the MDOH and MDOR, as applicable, before beginning employment with any establishment. The licensing agency for the respective medical cannabis establishment may issue work permits to these individuals. These licensing agencies shall maintain a work registry of all applicants and work permits issued. The fee for a work permit shall be Twenty-five Dollars (\$25.00) and the permit shall be valid for five (5) years. Work permits shall be the property of the employee and shall not be transferable to other employees.

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

(21) A medical cannabis dispensary shall only make sales to cardholders inside the dispensary. A medical cannabis dispensary shall not sell or otherwise convey medical cannabis to a



cardholder through the means of a drive-through, curbside delivery or other delivery outside the premises of the dispensary. Any topical cannabis product that is purchased by a dispensary from a licensed processor, and that is not ingested by the liver, may be sold to a cardholder or any person over the age of twenty-one (21) years old who is not a cardholder. Such products shall be placed in an area of the dispensary that does not require access with a registry identification card.

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

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

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

41-137-47. (1) * * * The licensing agency is authorized to investigate, either on the basis of complaints filed with it or on its own initiative through compliance visits, reviews or audits,



instances of suspected violations of any nature, including, but not limited to:

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

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

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

(d) The misappropriation of funds; and

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

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

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

(b) Deny an application for a license; or

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

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



298 (4) Whenever the results of such an investigation are filed,
299 the licensee may request an administrative hearing on the matter.

300 If a licensee or applicant wishes to appeal the licensing agency's
301 decision, the licensee or applicant shall file its administrative
302 appeal within twenty (20) days of receipt of the initial notice.

303 If such a hearing is requested, the licensing agency shall
304 set a day for a hearing and shall notify the licensee that on the
305 day fixed for hearing he or she may appear so that an
306 administrative hearing may take place. The licensing agency shall
307 then conduct a hearing on the record pursuant to the licensing
308 agency's rules and regulations governing such hearings, at which
309 time the burden shall be on the licensee or applicant to prove
310 that the agency's decision was:

- 311 (a) Unsupported by substantial evidence;
312 (b) Arbitrary or capricious;
313 (c) Beyond the power of the administrative agency to
314 make; or
315 (d) Violated some statutory or constitutional right of
316 the aggrieved party.

317 If the licensee or applicant fails to appeal the initial
318 notice within the prescribed time, the decision becomes final and
319 cannot be further appealed.

320 (5) In cases where violations of this chapter have been
321 substantiated, the licensing agency may assess a monetary penalty
322 or recoupment of costs for those reasonable costs that are



expended by the licensing agency in the investigation and conduct
of a proceeding for the compliance issue that is the subject
matter of the hearing, including, but not limited to, the costs of
process service, court reporters, expert witnesses and
investigations. The licensing agency shall determine the amount
of investigative fees and costs owed by a licensee based on an
itemized accounting after the investigation has been officially
completed and a final determination or action has been determined.
Upon final determination or action, the licensing agency shall
give to the licensee an itemized accounting of the investigative
fees and costs incurred. The licensing agency may recommend
denial of, or refusal to take final action to approve the renewal
of a licensee unless all investigative fees and costs have been
paid in full by the licensee.

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



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

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

356 (* * *9) Except as otherwise provided in subsection
357 (* * *8) of this section, the MDOH may revoke the registry
358 identification card of any cardholder who knowingly commits a
359 violation of this chapter.

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

364 (* * *11) No license issued by the MDOH or MDOR shall be
365 transferred by the license holder to any other person or entity
366 except with the written consent of the applicable licensing
367 agency.

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



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

