
HOUSE COMMITTEE AMENDMENTS

2021 Regular Session

Substitute for Original House Bill No. 524 by Representative Nelson as proposed by the House Committee on Administration of Criminal Justice

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact the heading of Title 26 of the Louisiana Revised Statutes of 1950, R.S. 36:451(B) and 458(E), R.S. 40:966(B)(2)(introductory paragraph) and (D)(1), and R.S. 47:287.73(C)(1) and 301(10)(ii); to enact Division 5 of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 14:93.21 through 93.25, Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 26:941 through 968, and R.S. 40:1046(L), and to repeal R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F), relative to the legal status of marijuana; to repeal laws which criminalize the possession of marijuana; to provide for a legal and regulatory framework relative to production of cannabis products and sale of such products to consumers over a certain age; to create and provide for crimes relating to unlawful sale, purchase, and possession of cannabis products; to revise the heading of Title 26 of the Louisiana Revised Statutes of 1950; to require and provide specifications for state regulation of cultivation, processing, and manufacturing of cannabis products; to require and provide specifications for state regulation of the retail sale of cannabis products; to require permitting by the state of cannabis retailers; to require licensure by the state of cannabis commercial growers, cannabis processors, and cannabis contract carriers; to create and provide requirements associated with permits to be issued by the state to allow cultivation and possession of cannabis plants by individuals for personal use; to require promulgation of administrative rules; to provide for definitions; to provide for products that holders of licenses and permits associated with medical marijuana may sell; to provide relative to the taxability of such products; to allow local governments to limit the issuance of licenses or permits within their jurisdiction; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Division 5 of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, comprised of R.S. 14:93.21 through 93.26, is hereby enacted to read as follows:

5. UNLAWFUL SALE, PURCHASE, AND POSSESSION
OF CANNABIS PRODUCTS

§93.21. Definitions

For purposes of R.S. 14:93.21 through 93.25, the following definitions apply:

(1) "Cannabis product" has the meaning ascribed in R.S. 26:941.

(2) "Public possession" means the possession of any cannabis product for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. "Public possession" does not include the following:

(a) The possession or consumption of any cannabis product:

(i) For an established religious purpose.

(ii) When a person under twenty-one years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(iii) In a private residence, which shall include a residential dwelling and up to twenty contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.

(b) Possession of medical marijuana which has been recommended to a patient and dispensed in accordance with R.S. 40:1046.

(3) "Purchase" means acquisition by the payment of money or other consideration.

§93.22. Unlawful sale of cannabis to persons under twenty-one

A. Unlawful sale of cannabis to persons under twenty-one is the selling or otherwise delivering for value of any cannabis product to any person under twenty-one years of age. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars.

§93.23. Purchase and public possession of cannabis products; exceptions; penalties

A. It is unlawful for any person under twenty-one years of age to purchase or have public possession of any cannabis product.

B.(1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. A citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

§93.24. Unlawful purchase of cannabis products by persons on behalf of persons under twenty-one

A. It is unlawful for any person, other than a parent, spouse, or legal guardian, as specified in R.S. 14:93.21(2)(a)(ii), to purchase on behalf of a person under twenty-one years of age any cannabis product.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

§93.25. Illegal possession of marijuana without a license

A. It shall be unlawful for anyone to possess more than two and one half pounds of marijuana without a cannabis retailers license.

B. Whoever violates the provisions of this Section shall be imprisoned with or without hard labor for not less than one year nor more than twenty years and pay a fine of not more than fifty thousand dollars.

§93.26. Responsibilities of cannabis retailers not relieved

Nothing in R.S. 14:93.21 through 93.24 shall be construed as relieving any licensed cannabis retailer of any responsibilities imposed under the provisions of Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950.

Section 2. The heading of Title 26 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted and Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, comprised of R.S. 26:941 through 968, is hereby enacted to read as follows:

TITLE 26. ~~LIQUORS-ALCOHOLIC~~ LIQUORS, OTHER ALCOHOLIC BEVERAGES, AND CANNABIS

* * *

CHAPTER 9. CANNABIS AND CANNABIS PRODUCTS

PART I. GENERAL PROVISIONS

§941. Definitions

(1) "Applicant" means a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation, or any other legal entity or organization through which business is conducted who has applied to the office of alcohol and tobacco control for a license to produce cannabis and cannabis products or for a cannabis retailer permit.

(2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections.

(3) "Cannabis" means all parts of plants of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination. Cannabis shall not include industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Louisiana Department of Agriculture and Forestry, or is cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018.

(4) "Cannabis-infused product" means any product that contains cannabis or cannabis extracts, is intended for human use, and is derived from cannabis as defined in this Section. The term "cannabis-infused product" shall not include either usable cannabis or cannabis concentrates.

(5) "Cannabis product" means any usable cannabis and cannabis-infused product as defined in this Section.

(6) "Cannabis retailer" means any person, other than a wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for sale or distribution any cannabis in any quantity.

(7) "Commissioner" means the commissioner of alcohol and tobacco control who shall be the assistant commissioner of the office of alcohol and tobacco control in the Department of Revenue.

(8) "Criminal history record information" means information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision, and release. It shall not include intelligence information gathered for investigatory purposes or any identification information which does not indicate involvement of the individual in the criminal justice system.

(9) "Cultivate" or "cultivating" means planting, growing, and harvesting cannabis.

(10) "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

(11) "Housing unit" means a house, apartment, or mobile home, or a group of rooms or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

(12) "Licensee" means a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture,

business association, cooperative association, professional corporation, or any other legal entity or organization through which business is conducted who has been issued a license by the office of alcohol and tobacco control pursuant to the provisions of this Chapter.

(13) "Licensure" means any license or permit that the office of alcohol and tobacco control is authorized to issue to any cultivator, commercial grower, seed producer, contract carrier, and processor of cannabis and cannabis products.

(14) "Office" means the office of alcohol and tobacco control of the Department of Revenue.

(15) "Retailer" means an entity that holds a permit issued in accordance with the provisions of this Chapter to purchase cannabis products from licensed commercial growers and processors and to sell cannabis products to a consumer.

(16) "Usable cannabis" means the dried leaves and flowers of the cannabis plant, and any mixture or preparation thereof, but shall not include the seeds, stalks, and roots of the plant.

PART II. CULTIVATION, PROCESSING,
AND MANUFACTURING OF CANNABIS

§951. Purpose

The legislature hereby authorizes the commissioner to exercise regulatory authority over the cultivation, processing, and manufacturing of cannabis and cannabis products in this state in accordance with the provisions of this Part.

§952. General requirements; prohibitions; testing; tracking

A. No person or entity shall cultivate, transport for commercial purposes, process, or manufacture cannabis or cannabis products without a license issued by the office in accordance with the provisions of this Part.

B. The commissioner shall require laboratory testing of cannabis products in a facility approved by the office prior to the transportation of such products from a commercial grower or processor to a licensed retailer.

C.(1) The commissioner shall establish a seed-to-sale tracking system that tracks cannabis products from either the seed or immature plant stage until the products are sold to consumers by licensed retailers.

(2) The commissioner shall not delay implementation of the program of licensure required by this Part pending establishment of the tracking system provided for in this Paragraph.

§953. Powers and duties of the commissioner

In addition to the powers, duties, and responsibilities otherwise vested in him by law, the commissioner shall:

(1) Adopt rules and regulations as are necessary to implement the provisions of this Part in accordance with the Administrative Procedure Act. The rules and regulations shall include, without limitation, all of the following:

(a) Criteria for licensure and procedures for the issuance, renewal, suspension, and revocation of licenses.

(b) Application, license, and testing fees to be assessed as authorized in Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

(c) Security requirements for cultivation and product manufacturing facilities.

(d) Labeling and packaging requirements, including requirements for child-resistant packaging, health and safety warnings, potency, and activation time.

(e) Health and safety regulations and standards for the cultivation of cannabis and the manufacturing of cannabis products, including pesticide use and allowable extraction methods.

(2) Collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected pursuant to this Part.

(3) Administer and enforce the provisions of this Part and the rules and regulations adopted pursuant to this Part.

(4) Develop sampling and testing procedures to ensure safety and verify the potency of cannabis cultivated and cannabis products manufactured pursuant to this Part.

(5) Enter facilities for the purpose of conducting inspections, collecting samples, testing, and examining and copying records.

(6) Hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(7) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, rules and regulations adopted pursuant to this Part, and orders and rulings issued pursuant to this Part.

(8) Institute civil proceedings to enforce his orders or rulings, collect any fees, penalties, or costs due under this Part, or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

(9) Appoint and employ all personnel necessary for the efficient and proper administration of this Part.

§954. Licensure requirements; authorization to obtain criminal history record information

A. The commissioner shall develop an annual, nontransferable cannabis business license to be issued in the following categories:

(1)(a) A cannabis commercial grower license, which shall authorize the licensee to produce, transport, and sell approved cannabis seeds and cultivate, handle, and transport cannabis in this state.

(b)(i) A cannabis commercial grower licensee may sell cannabis to a licensed cannabis processor or licensed cannabis retailer in this state, and may sell approved cannabis seeds to other licensed cannabis commercial growers and individuals holding a personal grower permit issued in accordance with this Part. A licensee shall not sell directly to an individual.

(ii) The commissioner shall provide information that identifies sellers of cannabis seed to personal and commercial growers and processors.

(c) The sales authorized in Subparagraph (b) of this Paragraph shall be considered wholesale sales.

(d) Each cannabis commercial grower licensee shall complete a monthly yield and sales report to the office by the fifteenth of each month and provide

reporting on the previous month. Each report shall include, at a minimum, the following information:

- (i) Amount of cannabis harvested in pounds.
- (ii) Amount of usable cannabis on hand.
- (iii) Amount of cannabis and usable cannabis sold to processors in pounds.
- (iv) Amount of usable cannabis sold to retailers in pounds.
- (v) Total amount of wholesale sales in dollars.
- (e)(i) The office shall have oversight and auditing responsibilities to ensure that all cannabis being grown in this state is accounted for. A licensed commercial grower shall be subject to a penalty relating to its accounting, auditing, or reporting of sales only if a gross discrepancy exists and cannot be explained.
- (ii) The penalty for fraudulent reporting of sales occurring within any two-year time period shall be revocation of the license.
- (f) There shall be no limit on the amount of cannabis that a licensed cannabis commercial grower may grow pursuant to the provisions of this Part.
- (g) The office may randomly inspect the operation, including business records and the cannabis crop, of any licensed cannabis commercial grower if any duly authorized officer or employee of the department has reason to believe that a violation of this Part has occurred.
- (h) The office may enter into a cooperative endeavor agreement with the Department of Agriculture and Forestry to ensure cannabis seed complies with the standards for seeds set by the Agricultural Chemistry and Seed Commission.
- (2)(a) A cannabis processor license, which shall authorize the licensee to handle, process, and transport cannabis and cannabis products in this state.
- (b) For purposes of this Paragraph, "process" means the converting of cannabis into cannabis products.
- (c)(i) The office shall promulgate rules for the preparation of cannabis products. The rules shall not be excessive or punitive in nature.
- (ii) Any facility that processes cannabis shall be subject to inspection by the office in accordance with the rules established pursuant to this Subparagraph. The

office may conduct such inspections once per year or upon reasonable belief that a violation of this Part has occurred. If any deficiency is found, the office shall issue a written deficiency report to the processor. The processor shall correct the deficiency within thirty days of receipt of the deficiency report or be subject to license suspension or revocation.

(d) A processor may sell cannabis products that it produces to a licensed cannabis retailer or any other licensed cannabis processor, and such sales shall be considered wholesale sales. A processor shall not sell directly to an individual.

(e) A licensed cannabis processor shall complete and submit to the office a monthly yield and sales report by the fifteenth of each month and provide reporting on the previous month. Each report shall include, at a minimum, the following information:

(i) Amount of cannabis purchased from cannabis commercial growers in pounds.

(ii) Amount of cannabis processed and the amount of cannabis waste in pounds.

(iii) Total amount of wholesale sales in dollars.

(f)(i) The office shall have oversight and auditing responsibilities to ensure that all cannabis being grown in this state is accounted for. A licensed processor shall be subject to a penalty relating to its accounting, auditing, or reporting of sales only if a gross discrepancy exists and cannot be explained

(ii) The penalty for fraudulent reporting of sales occurring within any two-year time period shall be revocation of the license.

(3)(a) A cannabis contract carrier license, which shall authorize the licensee to transport cannabis and cannabis products from a licensed cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state to a licensed cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state.

(b) All cannabis and cannabis products shall be transported in a locked container and clearly labeled "Cannabis or Cannabis Products" on the outside of the container.

B. No licensed cannabis commercial grower or cannabis processor shall be located in a "drug free zone" as defined in R.S. 17:405(A).

C. The number of cannabis business licenses or license categories that an applicant may apply for or receive shall not be limited; however, each application and each category shall require a separate application and fee. A cannabis commercial grower, cannabis processor, and cannabis contract carrier may share the same address or physical location, subject to restrictions set forth in administrative rules of the office.

D. As a condition of eligibility, the office shall require each applicant for a license provided for in this Section to do all of the following:

(1) Submit a full set of fingerprints in a form and manner prescribed by the office.

(2) Permit the office to request and obtain state and national criminal history record information on the applicant.

(3) Pay the reasonable costs to be incurred by the office in requesting and obtaining state and national criminal history record information on the applicant.

E. In accordance with the provisions and procedure prescribed by this Section, the office shall request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant for licensure whose fingerprints the office has obtained pursuant to this Section for the purpose of determining the applicant's suitability and eligibility for licensure.

F. Upon request by the office, and upon submission of an applicant's fingerprints and such other identifying information as may be required, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the FBI for similar or related information from other jurisdictions. The bureau may charge the office a reasonable processing fee for conducting and reporting on any such search.

§955. Suitability requirements

A. The office shall approve each application for a cannabis business license that meets the following criteria:

(1) The applicant is twenty-five years of age or older.

(2) The applicant is a legal resident of this state and shows proof of his residency. In the case of an applicant not applying as an individual, at least seventy-five percent of the applicant organization's total ownership or membership shall be comprised of persons who are Louisiana residents.

(3) The applicant shall be registered to conduct business in this state.

(4) If the applicant is not an individual, the applicant shall disclose all ownership or membership of the applicant organization.

B. Any applicant who, at the time of application, has had a felony conviction for a nonviolent offense in the last two years, has had any other type of felony conviction in the last five years, or is currently incarcerated or jailed shall not qualify for a cannabis business license. This prohibition shall apply to all owners or members of an applicant organization not applying as an individual.

§956. Fees

A. Each applicant and each licensee, respectively, shall pay an application fee and an annual license renewal fee to the office as required by the provisions of Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

B.(1) The application fee shall be payable to the office upon initial application.

(2) The license renewal fee shall be payable to the office annually after initial licensure.

§957. Issuance of licenses to medical marijuana production facilities

Notwithstanding any provision of R.S. 26:954 through 956, the office shall issue a cannabis commercial grower license, cannabis processor license, and cannabis contract carrier license to each entity that, pursuant to R.S. 40:1046, participated in a competitive public bid process and was awarded and entered into a contract with either the Louisiana State University Agricultural Center or the

Southern University Agricultural Center for the cultivation, extraction, and production of therapeutic cannabis in Louisiana without necessity of an application for the licenses. The office shall issue the licenses to the entity free of charge.

§958. Personal cultivation permits

A.(1) The office shall develop an annual personal cultivation permit for cultivation and possession of cannabis plants by individuals for personal use.

(2) The permit shall authorize the permittee to cultivate and possess up to six cannabis plants for personal consumption.

(3) The permit shall not authorize the permittee to sell any part of a cannabis plant to any person.

(4) The office shall charge an annual fee for the permit in the amount authorized in Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

B. An individual shall be twenty-one years of age or older to be eligible for a personal cultivation permit.

C. Each application for a personal cultivation permit shall be made on a form and in a manner prescribed by the commissioner that, at a minimum, shall include proof of age, proof of residence, and a description of the location and security plan for the proposed cannabis grow site.

D. No housing unit shall have more than twelve cannabis plants regardless of the number of persons twenty-one years of age or older who reside in the housing unit.

E. Personal cultivation of cannabis shall only occur in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons twenty-one years of age or older who have permission from the cultivator.

§959. Therapeutic marijuana

Nothing in this Part shall be construed to limit any privileges or rights of a patient to whom therapeutic marijuana has been recommended or of a therapeutic marijuana production facility as provided for in R.S. 40:1046.

§963. Issuance of permits to marijuana pharmacies

Notwithstanding the provisions of R.S. 26:962, the commissioner shall issue a cannabis retailer permit to each entity that holds a marijuana pharmacy license issued pursuant to R.S. 40:1046 without necessity of an application for the permit. The commissioner shall issue the permit to the entity free of charge.

§964. Cannabis retail establishments; age requirements for entry

No person under twenty-one years of age shall enter the premises of, or be employed in, a cannabis retail establishment.

§965. Cannabis retailer restrictions

Cannabis retailers shall be prohibited from all of the following activities:

(1) The sale of more than one ounce of cannabis or cannabis products to any individual per calendar day.

(2) The sale of cannabis or cannabis products over the internet. All sales of cannabis and cannabis products shall take place within a cannabis retail location.

(3) The sale or giving away of any consumable that is not cannabis or a cannabis product, including but not limited to cigarettes or tobacco products, alcoholic beverages, food products, and non-alcohol beverages.

(4) Advertising in violation of R.S. 26:966.

§966. Advertisement by cannabis retailers; limitations; certain advertising prohibited

A.(1) No cannabis retailer shall advertise through any means other than a single internet website and signage at its premises that conforms with the standards provided in Subsection B of this Section.

(2) Except as allowed by Paragraph (1) of this Subsection, each cannabis retailer is specifically prohibited from advertising through public media including, without limitation, newspapers, billboards, television, radio, social media, and internet advertising on any website other than the single site allowed by Paragraph (1) of this Subsection.

B. A cannabis retailer may attach a maximum of two separate signs to the exterior of its premises which identify the business by its business or trade name.

No such sign shall exceed one thousand six hundred square inches in size.

§967. Suspension and revocation of retailer permits

A. No person holding a permit issued in accordance with the provisions of this Part and no agent, associate, employee, representative, or servant agent of any person, shall do or permit any of the following acts to be done on or about the licensed premises:

(1)(a) Sell or serve cannabis or cannabis products to any person under twenty-one years of age. To determine the age of the consumer, the retailer shall obtain any one of the following from the consumer:

(i) A valid, current Louisiana driver's license which contains a photograph of the person presenting the driver's license.

(ii) A valid, current driver's license of another state which contains a photograph of the person and the date of birth of the person submitting the driver's license.

(iii) A valid, current special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card.

(iv) A valid, current passport or visa issued by the federal government, or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa.

(v) A valid, current military or federal identification card issued by the federal government containing a photograph of the person and the date of birth of the person submitting the identification card.

(vi) A valid, current special identification card of another state which contains a photograph of the person and the date of birth of the person submitting the identification card.

(b) Each form of identification provided for in Subparagraph (a) of this Paragraph shall, on its face, establish the age of the person as twenty-one years of age or older and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification provided for in Subparagraph (a) of this Paragraph shall be accepted as proof of age if it is expired, defaced, mutilated, or

altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional identification which contains the name, date of birth, and photograph of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Paragraph.

(2) Intentionally entice, aid, or permit any person under the age of twenty-one to visit or loiter in or about any place where cannabis or cannabis products are the principal commodities sold, handled, or given away.

(3) Permit any person under twenty-one years of age to work in any capacity on the premises.

(4) Permit any prostitution activities on the premises.

(5) Permit the consumption of cannabis or cannabis products on the premises.

(6) Intentionally conduct illegal gambling, as defined by law, on the premises described in the application for the permit.

(7) Fail to keep the premises clean and sanitary.

(8) Illegally sell, offer for sale, possess, or permit the consumption on or about the licensed premises of any kind or type of controlled dangerous substances or other illegal substances.

(9) Permit any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct, or practices on the licensed premises.

B. A violation of the provisions of this Section by a retailer's agent, associate, employee, representative, or servant shall be considered an act of the retailer for purposes of suspension or revocation of a permit.

C. A person who commits any violation of the provisions of this Section, or any rule or regulation of the commissioner, for which no other penalty is provided in this Section shall be imprisoned for not less than thirty days nor more than six

months. Such violation shall also be sufficient cause for the suspension or revocation of a permit.

D. Notwithstanding the issuance of a permit by way of renewal, the commissioner may revoke or suspend such permit, as prescribed by this Chapter, for violations of this Section occurring during the permit period immediately preceding the issuance of such permit.

§968. Prohibited issuance of license or permit

The commissioner shall not issue any license or permit authorized by the provisions of this Part which has been prohibited by the local government of a parish or municipality.

Section 3. R.S. 36:451(B) and 458(E) are hereby amended and reenacted to read as follows:

§451. Department of Revenue; creation; domicile; composition; purposes and functions

* * *

B. The Department of Revenue, through its offices and officers, shall be responsible for assessing, evaluating, and collecting the consumer, producer, and any other state taxes specifically assigned by law to the department, and shall have authority generally for alcoholic beverage control, regulation and control of marijuana other than medical marijuana produced in accordance with R.S. 40:1046, and the regulation of charitable gaming.

* * *

§458. Offices; purposes and functions

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E. The office of alcohol and tobacco control shall perform₂ in accordance with the applicable laws and under the direction of the commissioner, the functions of the state relating to the regulation of the sale of alcoholic beverages in the state, including certification of persons eligible for the issuance and renewal of permits required by law for persons engaging in the business of dealing in beverages of high or low alcoholic content, ~~and~~ the administration of the law relating to alcoholic

beverages and their sale, and regulation and control of marijuana other than medical marijuana produced in accordance with R.S. 40:1046. Whenever the commissioner deems necessary, he may reassign the responsibility for the collection of a tax or other duty assigned by this Subsection to this office to another office within the department created by this Section.

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Section 4. R.S. 40:966(B)(2)(introductory paragraph) and (D)(1) and 1046(K) are hereby amended and reenacted and R.S. 40:1046(L) is hereby enacted to read as follows:

§966. Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of ~~marijuana~~, synthetic cannabinoids; and heroin

* * *

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to:

* * *

(2) A substance classified in Schedule I which is ~~marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or a synthetic cannabinoids~~ cannabinoid for an amount of:

* * *

D. If a person knowingly or intentionally possesses a controlled substance as classified in Schedule I, unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978, while acting in the course of his professional practice, where the amount of the controlled substance is equal to or above the following weights, it shall be considered a violation of Subsection A of this Section:

(1) For ~~marijuana, tetrahydrocannabinol~~, synthetic cannabinoids; or chemical derivatives thereof, two and one-half pounds.

* * *

§1046. Recommendation and dispensing of marijuana for therapeutic use; rules and regulations of the Louisiana State Board of Medical Examiners and

Louisiana Board of Pharmacy; production facility licensing by the Department of Agriculture and Forestry

* * *

K.(1)(a) Each holder of a license for production of marijuana for therapeutic use issued in accordance with Subsection H of this Section who would qualify for any license pursuant to R.S. 26:957 after the date of enactment of Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, but before the date upon which the office of alcohol and tobacco control adopts administrative rules to create such a license, may sell cannabis and cannabis products, as defined in R.S. 26:941, to any holder of a marijuana pharmacy license issued in accordance with Subsection G of this Section.

(b) Each holder of a marijuana pharmacy license issued in accordance with Subsection G of this Section who would qualify for a cannabis retailer permit pursuant to R.S. 26:963 after the date of enactment of Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, but before the date upon which the office of alcohol and tobacco control adopts administrative rules to create such a permit, may engage in retail sale of cannabis and cannabis products as defined in R.S. 26:941.

(2)(a) No sale of any cannabis or cannabis product, as defined in R.S. 26:941, authorized by Paragraph (1) of this Subsection shall qualify for any exemption or exclusion from taxation provided in R.S. 47:302(BB), 321(P), 321.1(I), 331(V), or in any other provision of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

~~K L.~~ The provisions of this Section shall terminate on January 1, 2025.

Section 5. R.S. 47:287.73(C)(1) and 301(10)(ii) are hereby amended and reenacted to read as follows:

§287.73. Modifications to deductions from gross income allowed by federal law

* * *

C. Additions. The following items are declared allowable as deductions in the computation of net income and shall be added to the deductions allowed under federal law to the extent not already included therein:

(1)(a) Expenses that would otherwise be deductible under federal law but for the provisions of 26 U.S.C. 280E, for a licensee of this state pursuant to Part X-E of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, as amended, related to the production or dispensing of marijuana recommended for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition as defined in R.S. 40:1046(A).

(b) No cannabis or cannabis product sold pursuant to the authority of R.S. 40:1046(K) shall be deemed "marijuana recommended for therapeutic use" for purposes of this Paragraph.

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§301. Definitions

As used in this Chapter the following words, terms, and phrases have the meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

* * *

(10)

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(ii)(i) For purposes of sales and use tax imposed by the state or any political subdivision of the state, the term "retail sale" or "sale at retail" shall not include marijuana recommended for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition as defined in R.S. 40:1046(A).

(ii) The exception provided in Item (i) of this Subparagraph shall not apply to the sale of any cannabis or cannabis product authorized by the provisions of R.S. 40:1046(K).

* * *

Section 6. R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F) are hereby repealed in their entirety.

Section 7.(A) The commissioner of alcohol and tobacco control shall solicit broad public input and participation in developing the framework for regulation of cannabis

retailers, cultivators, commercial growers, seed producers, contract carriers, and processors of cannabis products as provided for in Section 2 of this Act.

(B) The commissioner of alcohol and tobacco control shall initiate the promulgation of all rules required by the provisions of Section 2 of this Act through the notice of intent process provided for in R.S. 49:953(A) prior to December 1, 2021.

(C) The commissioner of alcohol and tobacco control shall take no action to enforce the provisions of Section 2 of this Act prior to the sixtieth day after the date of adoption of the administrative rules required by this Section.

Section 8.(A) The commissioner of the office of Alcohol and Tobacco Control shall solicit broad public input and participation in developing the framework for regulation of cultivators, commercial growers, seed producers, contract carriers, and processors of cannabis and cannabis products provided for in Section 3 of this Act.

(B) The commissioner of the office of Alcohol and Tobacco Control shall initiate the promulgation of all rules required by the provisions of Section 3 of this Act through the notice of intent process provided for in R.S. 49:953(A) prior to December 1, 2021.

(C) The commissioner of the office of Alcohol and Tobacco Control shall take no action to enforce the provisions of Section 3 of this Act prior to the sixtieth day after the date of adoption of the administrative rules required by this Section.

Section 9.(A) The provisions of this Act shall not be construed to prohibit any employer from enforcing or adopting reasonable zero tolerance policies or drug free workplace policies, or workplace policies concerning the drug testing, smoking, consuming, storing, or using marijuana in the work place or while an employee is designated as being on-call.

(B) The provisions of this Act shall not prohibit an employer from disciplining or terminating an employee for violating an employer's employment policy or workplace drug policy, provided that such policies are nondiscriminatory.

Section 10. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are hereby declared severable.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft

2021 Regular Session

Abstract: Provides for the decriminalization of marijuana for recreational use and regulation of that product by the office of alcohol and tobacco control (ATC)

Proposed law provides for the repeal of all of the following:

- (1) Present law classifying marijuana as a controlled dangerous substance.
- (2) Present law providing criminal penalties for possession and distribution of marijuana.
- (3) Present law providing for immunity from prosecution for possession of marijuana in certain circumstances which would become inapplicable if marijuana is legalized.

Regulation of Cannabis Cultivation and Processing

Proposed law defines "cannabis" as all parts of plants of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination.

Proposed law authorizes the department of alcohol and tobacco control to exercise regulatory authority over the cultivation, processing, and manufacturing of cannabis products in this state in accordance with the provisions of proposed law.

Proposed law prohibits the cultivation, transportation, processing, and manufacturing of cannabis or cannabis products without a license issued by ATC in accordance with proposed law.

Proposed law provides for powers and duties of the commissioner of ATC with respect to cannabis cultivation and processing.

Proposed law requires ATC to develop an annual, nontransferable cannabis business license to be issued in the following categories:

- (1) A cannabis commercial grower license, which shall authorize the licensee to produce, transport, and sell approved cannabis seeds and cultivate, handle, and transport cannabis in this state.
- (2) A cannabis processor license, which shall authorize the licensee to handle, process, and transport cannabis and cannabis products in this state.
- (3) A cannabis contract carrier license, which shall authorize the licensee to transport cannabis and cannabis products from a licensed cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state to a licensed

cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state

Proposed law provides for requirements, authorizations, restrictions, and prohibitions associated with each type of license to be issued by ATC. Requires criminal background checks on applicants for licensure, provides for conditions for eligibility for licensure, and establishes suitability requirements for licensees.

Proposed law prohibits cannabis commercial growers and cannabis processors from being located in any "drug free zone" as defined in present law, R.S. 17:405(A).

Proposed law stipulates that the number of cannabis business licenses or license categories that an applicant may apply for or receive shall not be limited. Provides that a cannabis commercial grower, cannabis processor, and cannabis contract carrier may share the same address or physical location, subject to restrictions set forth in administrative rules of ATC.

Proposed law requires that, notwithstanding any other provision of proposed law, ATC shall issue a cannabis commercial grower license, cannabis processor license, and cannabis contract carrier license to each entity that holds a medical marijuana production license issued pursuant to present law, R.S. 40:1046, without necessity of an application for the licenses.

Proposed law requires ATC to develop an annual personal cultivation permit for cultivation and possession of cannabis plants by individuals for personal use. Provides that the permit shall authorize the permittee to cultivate and possess up to six cannabis plants for personal consumption. Stipulates that the permit shall not authorize the permittee to sell any part of a cannabis plant to any person.

Proposed law requires that an individual be 21 years of age or older in order to be eligible for a personal cultivation permit.

Proposed law provides standards and restrictions pertaining to cultivation of cannabis by persons who hold a personal cultivation permit.

Proposed law provides that nothing therein shall be construed to limit any privileges or rights of a patient to whom therapeutic marijuana has been recommended or of a therapeutic marijuana production facility as provided for in present law, R.S. 40:1046.

Proposed law requires the commissioner to solicit broad public input and participation in developing the framework for regulation of cannabis retailers provided for in proposed law. Requires the commissioner to initiate the promulgation of all rules required by proposed law through the notice of intent process provided for in present law, R.S. 49:953(A), prior to Dec. 1, 2021.

Proposed law provides that the commissioner shall take no action to enforce the provisions of proposed law prior to the 60th day after the date of adoption of the administrative rules required by proposed law.

Regulation of Retail Sale of Cannabis

Proposed law requires the commissioner of alcohol and tobacco control in the Department of Revenue, referred to hereafter as the "commissioner", to develop a cannabis retailer permit and adopt rules and regulations pertaining to the permit. Requires that prior to selling, offering for sale, exposing for sale, or possessing for sale or distribution cannabis in any quantity, a person shall obtain a permit in accordance with the provisions of proposed law.

Proposed law requires that an applicant for a retailer permit meet the following qualifications:

- (1) Be 21 years of age or older.
- (2) Provide proof of valid lease or ownership of premises in which the business will be located.
- (3) Shall not be convicted of any offense involving a narcotic listed in Schedule I of present law known as the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq., provided the offense was not marijuana-related.

Proposed law prohibits cannabis retailers from being located in any "drug free zone" as defined in present law, R.S. 17:405(A).

Proposed law requires that retail locations contain a restricted area where cannabis and cannabis products are stored and sold. Provides that all of the following requirements shall apply with respect to such restricted areas:

- (1) The restricted areas shall be supervised by a retailer employee at all times when customers are present to ensure that only persons who are 21 years of age and older are permitted to enter.
- (2) Retailer employees shall make reasonable efforts to limit the number of customers in relation to the number of employees present in the restricted area at any time.

Proposed law requires, notwithstanding other provisions of proposed law, that the commissioner shall issue a cannabis retailer permit to each entity that holds a marijuana pharmacy license issued pursuant to present law, R.S. 40:1046, without necessity of an application for the permit.

Proposed law prohibits persons under 21 years of age from entering the premises of, or being employed in, a cannabis retail establishment.

Proposed law prohibits cannabis retailers from all of the following activities:

- (1) The sale of more than one ounce of cannabis or cannabis products to any individual per calendar day.
- (2) The sale of cannabis or cannabis products over the internet. All sales of cannabis and cannabis products must take place within a cannabis retail location.
- (3) The sale or giving away of any consumable that is not cannabis or cannabis product, including but not limited to cigarettes or tobacco products, alcoholic beverages, food products, and non-alcohol beverages.
- (4) Advertising in violation of restrictions provided in proposed law.

Proposed law prohibits cannabis retailers from advertising through any means other than a single internet website and signage at its premises that conforms with the following standards:

- (1) There may be a maximum of two separate signs on the exterior of its premises which identify the business by its business or trade name.
- (2) No sign shall exceed 1,600 square inches in size.

Proposed law specifically prohibits cannabis retailers from advertising through public media including, without limitation, newspapers, billboards, television, radio, social media, and internet advertising on any website other than the single site allowed by Paragraph (1) of this Subsection.

Proposed law provides causes for suspension and revocation of cannabis retailer permits. Prohibits cannabis retailers from doing or permitting any of the following acts on or about the licensed premises:

- (1) Selling or serving cannabis products to any person under 21 years of age.
- (2) Intentionally enticing, aiding, or permitting any person under the age of 21 to visit or loiter in or about any place where cannabis products are the principal commodities sold, handled, or given away.
- (3) Permitting any person under 21 years of age to work in any capacity on the premises.
- (4) Permitting any prostitution activities on the premises.
- (5) Permitting the consumption of cannabis or cannabis products on the premises.
- (6) Intentionally conducting illegal gambling, as defined by present law, on the premises described in the application for the permit.
- (7) Failing to keep the premises clean and sanitary.
- (8) Illegally selling, offering for sale, possessing, or permitting the consumption on or about the licensed premises of any kind or type of controlled dangerous substances or other illegal substances.
- (9) Permitting any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct, or practices on the licensed premises.

Proposed law requires the commissioner of ATC to solicit broad public input and participation in developing the framework for regulation of cultivators, commercial growers, seed producers, contract carriers, and processors of cannabis and cannabis products provided for in proposed law. Requires the commissioner to initiate the promulgation of all rules required by proposed law through the notice of intent process provided for in present law, R.S. 49:953(A), prior to Dec. 1, 2021.

Proposed law provides that the commissioner of ATC shall take no action to enforce the provisions of proposed law prior to the 60th day after the date of adoption of the administrative rules required by proposed law.

Unlawful Sale, Purchase, and Possession of Cannabis Products

Proposed law provides that unlawful sale of cannabis to persons under 21 is the selling or otherwise delivering for value of any cannabis product to any person under 21 years of age. Provides that lack of knowledge of the person's age shall not be a defense. Provides that whoever violates proposed law shall be fined not less than \$500 nor more than \$1,000 or imprisoned for not less than 30 days nor more than six months, or both.

Proposed law provides that it is unlawful for any person under 21 years of age to purchase or have public possession of any cannabis product. Provides that, for purposes of proposed law, "public possession" means the possession of any cannabis product for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. Stipulates, however, that "public possession" does not include the following:

- (1) The possession or consumption of any cannabis product:
 - (a) For an established religious purpose.

- (b) When a person under 21 years of age is accompanied by a parent, spouse, or legal guardian 21 years of age or older.
 - (c) In a private residence, which shall include a residential dwelling and up to 20 contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.
- (2) Possession of medical marijuana which has been recommended to a patient and dispensed in accordance with present law, R.S. 40:1046.

Proposed law provides that whoever violates its prohibition on persons under 21 purchasing or having public possession of any cannabis product shall be fined not more than \$100. Provides that any person apprehended while violating the provisions of proposed law shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. Stipulates that a citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

Proposed law provides that it is unlawful for any person, other than a parent, spouse, or legal guardian, to purchase on behalf of a person under 21 years of age any cannabis product. Provides that whoever violates the provisions of proposed law shall be fined not more than \$500 or imprisoned for not more than 30 days, or both.

Proposed law provides that nothing therein shall be construed as relieving any licensed cannabis retailer of any responsibilities imposed under proposed law relative to licensure and regulation of such retailers.

Proposed law provides that the commissioner shall not issue a license or permit if it has been prohibited in a parish or municipality.

(Amends the heading of Title 26, R.S. 36:451(B) and 458(E), R.S. 40:966(B)(2)(intro. para.) and (D)(1), and R.S. 47:287.73(C)(1) and 301(10)(ii); Adds R.S. 14:93.21 through 93.25, R.S. 26:941 through 968, and R.S. 40:1046(L); Repeals R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F))