

2021 Regular Session

HOUSE BILL NO. 709 (Substitute for House Bill No. 637 by Representative Newell)

BY REPRESENTATIVE NEWELL

CONTROLLED SUBSTANCES: Provides relative to the regulation of cannabis

1 AN ACT

2 To enact Chapter 32 of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 3:4761 through 4771, and Chapter 9 of Title 26 of the Louisiana Revised

4 Statutes of 1950, to be comprised of R.S. 26:941 through 949, relative to cannabis;

5 to provide for definitions; to provide relative to the cultivation, processing, and

6 manufacturing of cannabis and cannabis products; to provide for licensing; to

7 provide for the authority of the Department of Agriculture and Forestry; to provide

8 for criminal history checks and suitability requirements; to provide for application,

9 permit, and license fees; to provide for transportation restrictions; to provide for civil

10 penalties; to provide relative to the retail sale of cannabis and cannabis products; to

11 provide for retailer permits and fees; to provide for age restrictions regarding the

12 purchase of cannabis and cannabis products; to provide for additional restrictions;

13 to provide relative to the suspension or revocation of permits; to provide for a

14 program of social equity in the industry; to require promulgation of administrative

15 rules; to provide for applicability; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Chapter 32 of Title 3 of the Louisiana Revised Statutes of 1950,

18 comprised of R.S. 3:4761 through 4771, is hereby enacted to read as follows:

1 CHAPTER 32. CANNABIS

2 §4761. Purpose

3 The Department of Agriculture and Forestry is hereby authorized to exercise
4 regulatory authority over the cultivation, processing, and manufacturing of cannabis
5 and cannabis products in Louisiana.

6 §4762. Social Equity in the Cannabis Industry

7 A. It shall be the intent of the Legislature of Louisiana that there shall be no
8 barriers to the entry, acceptance, or approval of applications or licensure for
9 individuals and communities most adversely impacted by the enforcement of
10 marijuana laws. In the interest of establishing a legal cannabis industry that is
11 equitable and accessible to those most adversely impacted by the enforcement of
12 drug-related laws in this state, including cannabis related laws, the Legislature of
13 Louisiana finds and declares that a program of social equity should be established.
14 The Legislature of Louisiana also finds and declares that individuals who have been
15 arrested or incarcerated due to drug laws suffer long-lasting negative consequences,
16 including impacts to employment, business ownership, housing, health, and long-
17 term financial well-being. The Legislature of Louisiana declares that promotion of
18 business ownership by individuals who have resided in areas of high poverty and
19 high enforcement of cannabis-related laws furthers an equitable cannabis industry.
20 Therefore, in the interest of remedying the harms resulting from the disproportionate
21 enforcement of cannabis-related laws, the Legislature of Louisiana finds and declares
22 that a cannabis equity program shall be developed and should offer, among other
23 things, financial assistance and license application benefits to individuals most
24 directly and adversely impacted by the enforcement of cannabis-related law who are
25 interested in starting cannabis business establishments.

26 §4763. Definitions

27 As used in this Chapter, the following terms shall have the following
28 meanings:

1 (1) "Applicant" means a natural person, a corporation, limited liability
2 company, partnership, joint stock association, sole proprietorship, joint venture,
3 business association, cooperative association, professional corporation, or any other
4 legal entity or organization through which business is conducted that has applied to
5 the Department of Agriculture and Forestry for a license to produce cannabis and
6 cannabis products.

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

10 (3) "Cannabis" means all parts of plants of the genus Cannabis, whether
11 growing or not, the seeds thereof, the resin extracted from any part of such plant, and
12 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
13 its seeds or resin, but shall not include the mature stalks of such plant, fiber produced
14 from such stalks, oil or cake made from the seeds of such plant, any other compound,
15 manufacture, salt, derivative, mixture, or preparation of such mature stalks (except
16 the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant
17 which is incapable of germination.

18 (4) "Cannabis equity applicant" means an applicant who has submitted, or
19 will submit, an application to engage in commercial cannabis activity through a
20 production facility license and who meets the requirements of the cannabis equity
21 program.

22 (5) "Cannabis equity licensee" means a licensee who has been issued a
23 license by the Department of Agriculture and Forestry to produce cannabis and
24 cannabis products and who meets the requirements of the state's cannabis equity
25 program.

26 (6) "Cannabis equity program" means a program adopted or operated by the
27 state that focuses on inclusion and support of individuals in Louisiana's cannabis
28 industry who are linked to populations or neighborhoods that were negatively or

1 disproportionately impacted by cannabis criminalization. Cannabis equity programs
2 may include but are not limited to the following types of services:

3 (a) Small business support services offering technical assistance to those
4 persons from economically disadvantaged communities that experience high rates
5 of poverty or communities most harmed by cannabis prohibition, determined by
6 historically high rates of arrests or convictions for cannabis law violations.

7 (b) Assistance in paying state regulatory and licensing fees.

8 (c) Assistance with the application process.

9 (d) Assistance with regulatory compliance.

10 (7) "Commissioner" means the commissioner of the Department of
11 Agriculture and Forestry.

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

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

22 (10) "Department" means the Department of Agriculture and Forestry.

23 (11) "FBI" means the Federal Bureau of Investigation of the United States
24 Department of Justice.

25 (12) "Licensee" means a natural person, a corporation, limited liability
26 company, partnership, joint stock association, sole proprietorship, joint venture,
27 business association, cooperative association, professional corporation, or any other
28 legal entity or organization through which business is conducted that has been issued

1 a license by the Department of Agriculture and Forestry to produce cannabis and
2 cannabis products.

3 (13) "Licensure" means any license or permit that the department is
4 authorized to issue for the production of cannabis and cannabis products and the
5 facility producing cannabis and cannabis products.

6 (14) "Permit" means authorization issued by the department for a natural
7 person to work for, or on behalf of, a licensee.

8 (15) "Permittee" means a principle officer, board member, or member of the
9 licensee or producer, or a person employed in the operation or supervision of the
10 licensee's operation, including any individual whose employment duties directly
11 relate to the growing, cultivating, harvesting, processing, weighing, labeling,
12 packing, transporting, and selling of cannabis or cannabis products.

13 (16) "Production facility" means a facility operating pursuant to a license
14 issued by Department of Agriculture and Forestry to cultivate and process cannabis,
15 manufacture cannabis products, package and label cannabis products, and sell
16 cannabis to licensed retailers. A production facility shall not sell cannabis directly
17 to consumers.

18 (17) "Retailer" means an entity licensed by the office of alcohol and tobacco
19 control pursuant to R.S. 26:943 to purchase cannabis products from licensed
20 production facilities and sell cannabis products to a consumer.

21 §4764. General requirements; prohibitions; testing; tracking

22 A. No person or entity shall cultivate, process, or manufacture cannabis or
23 cannabis products without a license issued by the department pursuant to this
24 Chapter.

25 B. The department shall test the cannabis products in a facility approved by
26 the department prior to the products being transported from a production facility to
27 a licensed retailer.

1 C. The department shall establish a seed-to-sale tracking system that tracks
2 the cannabis from either the seed or immature plant stage until the product is sold to
3 a consumer by a licensed retailer.

4 §4765. Powers and duties of the commissioner

5 A. In addition to the powers, duties, and responsibilities otherwise vested in
6 the commissioner by law, the commissioner shall:

7 (1) Adopt rules and regulations as are necessary to implement the provisions
8 of this Chapter. The rules and regulations shall include but not be limited to:

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

11 (b) Application, license, permit, and testing fees.

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

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

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

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

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

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

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

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

1 (7) Impose civil penalties for violations of the orders issued pursuant to the
2 provisions of this Chapter or of the rules and regulations adopted pursuant to this
3 Chapter.

4 (8) Seek and obtain injunctive or other civil relief to restrain and prevent
5 violations of this Chapter, rules and regulations adopted pursuant to this Chapter, or
6 orders and rulings issued pursuant to this Chapter.

7 (9) Institute civil proceedings to enforce the orders or rulings of the
8 commissioner, collect any fees, fines, penalties, or costs due under this Chapter or
9 to otherwise enforce the provisions of this Chapter or rules and regulations adopted
10 pursuant to this Chapter.

11 (10) Appoint and employ all personnel necessary for the efficient and proper
12 administration of this Chapter.

13 §4766. Licensure requirements; authorization to obtain criminal history record
14 information

15 A.(1) The Department of Agriculture and Forestry shall develop an annual,
16 nontransferable production facility license for the cultivation, processing, and
17 manufacturing of cannabis and cannabis products.

18 (a) The department shall limit the number of licenses granted in the state to
19 no more than ten licenses. Once the maximum number of licenses have been issued,
20 the department shall only issue new licenses after a current license is either revoked
21 or not renewed or with legislative approval. The department shall issue any
22 approved new licenses in accordance with the criteria and procedures outlined in this
23 Section.

24 (b) The department shall develop rules in accordance with the
25 Administrative Procedure Act to ensure the number of production facilities are
26 equally distributed geographically throughout the state. The department shall use,
27 at a minimum, the following criteria to develop such rules for issuing licenses:

28 (i) Population distribution of the state.

1 (ii) Issuance of at least one license to a cannabis equity applicant qualified
2 under the cannabis equity program for every one license issued to a non cannabis
3 equity applicant.

4 (iii) Preference to applicants who have resided in this state or owned the
5 property on which the production facility will be located for at least five years prior
6 to the effective date of this Chapter and shall have a stake of at least fifty-one percent
7 ownership in the license.

8 (c) No production facility shall be located in a "drug free zone" as defined
9 in R.S. 17:405(A).

10 (d) No licensee shall sell or transfer their license to another person that has
11 not been a Louisiana resident for at least five years prior to the sale or transfer or to
12 an entity that does not have an ownership group made up of at least fifty-one percent
13 of Louisiana residents residing in the state at least five years prior to the sale or
14 transfer.

15 (2) Any license awarded pursuant to this Section shall not exceed five years.

16 B. As a condition of eligibility, the department shall require an applicant to
17 do the following:

18 (1) Submit a full set of fingerprints, in a form and manner prescribed by the
19 department.

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

22 C. Prior to entering into any contract, memorandum of understanding, or
23 cooperative endeavor agreement with a licensee, a subcontractor shall also comply
24 with the conditions of eligibility contained in Subsection B of this Section in order
25 to receive contract approval from the department.

26 D. In accordance with the provisions and procedure prescribed by this
27 Section, the department shall request and obtain state and national criminal history
28 record information from the bureau and the FBI relative to any applicant for

1 licensure whose fingerprints the department has obtained pursuant to this Section for
2 the purpose of determining the applicant's suitability and eligibility for licensure.

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

9 §4767. Suitability requirements

10 A. The department shall not grant any license or issue any other contract
11 approval pursuant to the provisions of this Chapter if the applicant or subcontractor
12 or any officer, director, or any person having a five percent or more economic
13 interest in the entity seeking licensure or contract approval has been disqualified on
14 the basis of the following criteria:

15 (1) Has been convicted or entered a plea of guilty or nolo contendere for any
16 of the following:

17 (a) Theft or attempted theft, illegal possession of stolen things, or any
18 offense or attempt involving the misappropriation of property or funds within five
19 years from the date of application.

20 (b) Any offense involving fraud or attempted fraud or false statements or
21 declarations within five years from the date of application.

22 (c) A crime of violence as defined in R.S. 14:2(B).

23 (d) Any offense involving Schedule I narcotics, provided the offense was not
24 marijuana related.

25 (2) There is a current prosecution or pending charge against the person in
26 any jurisdiction for any offense listed in Paragraph (1) of this Subsection.

27 (3) The applicant or any person required to be suitable pursuant to this
28 Section fails to provide information and documentation to reveal any fact material

1 to a suitability determination or supplies information which is untrue or misleading
2 as to a material fact pertaining to the suitability criteria.

3 B. No person shall obtain a license pursuant to this Section if the applicant,
4 subcontractor, or any of the service providers in the chain of subcontractors, is
5 owned wholly or in part by any state employee or member of a state employee's
6 immediate family, including but not limited to any legislator, statewide public
7 official, university or community or technical college employee, Louisiana State
8 University Agricultural Center employee, or Southern University Agricultural Center
9 employee. For the purposes of this Paragraph, "immediate family" has the same
10 meaning as provided in R.S. 42:1102.

11 C. No person licensed pursuant to this Section shall give or receive anything
12 of value in connection with any contract, memorandum of understanding, or
13 cooperative endeavor agreement executed pursuant to this Section except the value
14 that is expressed in the contract, memorandum of understanding, or cooperative
15 endeavor agreement.

16 D. Any contract, memorandum of understanding, or cooperative endeavor
17 agreement entered into with any licensee or subcontractor pursuant to this Section
18 shall be a public record subject to disclosure pursuant to the Public Records Law,
19 R.S. 44:1 et seq.

20 §4768. Fees; disposition of funds

21 A. The department shall establish fees to be paid by an applicant.

22 (1) The application fee shall not exceed two thousand five hundred dollars.
23 The application fee shall be nonrefundable.

24 (2) The application fee shall be payable to the department upon submission
25 of the application.

26 B. The department shall collect a suitability fee to be paid to the office of
27 state police, gaming division to investigate the applicant once chosen as the licensee.

28 C. The department shall establish a production facility license fee to be paid
29 by the licensee in accordance with the following:

1 (1) The license fee shall not exceed one hundred thousand dollars.

2 (2) The license fee shall be paid annually to the department.

3 D. A cannabis equity licensee may apply to the Louisiana Agriculture
4 Finance Authority for a loan equal to seventy-five percent of the cost of the initial
5 license. The Louisiana Agriculture Finance Authority shall make the funds for this
6 loan available provided that adequate funds exist. A cannabis equity licensee shall
7 pay back the total amount of the loan to the Louisiana Agriculture Finance Authority
8 within three years from the date the license is issued. If the cannabis equity licensee
9 fails to pay back the loan in full within the requisite time period the department shall
10 revoke the license.

11 E. The department shall establish a permit fee to be paid for a person
12 employed in the operation or supervision of the licensee's operation in accordance
13 with the following:

14 (1) The permit fee shall not exceed fifty dollars.

15 (2) The permit fee shall be payable annually to the department.

16 F. The department shall establish a transportation carrier fee to be paid for
17 a person employed in transporting cannabis or cannabis products in accordance with
18 the following:

19 (1) The transportation carrier fee shall not exceed two hundred and fifty
20 dollars.

21 (2) The permit fee shall be payable annually to the department.

22 G. All fees collected and retained by the department shall be used to fund the
23 expenses relating to the regulation and control of cannabis and cannabis products as
24 provided for in this Chapter.

25 §4769. Transportation of cannabis

26 A. A licensee shall only be allowed to transport cannabis or cannabis
27 products to the following locations:

28 (1) From its production facility to a testing facility approved by the
29 department pursuant to this Chapter.

1 (2) From its production facility to a licensed retailer.

2 (3) When a specific nonroutine transport request from the licensee is
3 approved in writing by the department.

4 B. Any licensee using an employee of the business or contracting with an
5 outside carrier for the purpose of this Section shall first have the employee or outside
6 carrier approved by the department in accordance with the procedures for a
7 subcontractor under this Chapter.

8 §4770. Civil penalties

9 A. Any person who violates any provision of this Chapter, or any rule or
10 regulation adopted pursuant to this Chapter, shall be subject to a civil penalty of not
11 more than fifty thousand dollars for each act of violation and for each day of
12 violation. Each day on which a violation occurs shall constitute a separate offense.

13 B. Civil penalties may be assessed only by a ruling of the commissioner
14 based upon an adjudicatory hearing held in accordance with the provisions of the
15 Administrative Procedure Act and this Chapter.

16 §4771. Therapeutic marijuana; issuance of licenses to therapeutic marijuana
17 production facilities

18 A. Nothing in this Chapter shall be construed to limit any privileges or rights
19 of a medical marijuana patient or production facility as provided by R.S. 40:966(F)
20 and 1046.

21 B. Notwithstanding any provision of R.S. 3:4766 through 4768, the
22 department shall issue a cannabis production facility license to each entity that,
23 pursuant to R.S. 40:1046, participated in a competitive public bid process and was
24 awarded and entered into a contract with either the Louisiana State University
25 Agricultural Center or the Southern University Agricultural Center for the
26 cultivation, extraction, and production of therapeutic cannabis in Louisiana without
27 necessity of an application for license. The department shall issue the licenses to the
28 entity free of charge.

1 Section 2. Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950,
2 comprised of R.S. 26:941 through 949, is hereby enacted to read as follows:

3 CHAPTER 9. CANNABIS AND CANNABIS PRODUCTS

4 §941. Social Equity in the Cannabis Industry

5 A. It shall be the intent of the Legislature of Louisiana that there shall be no
6 barriers to the entry, acceptance or approval of applications or licensure for
7 individuals and communities most adversely impacted by the enforcement of
8 marijuana laws. In the interest of establishing a legal cannabis industry that is
9 equitable and accessible to those most adversely impacted by the enforcement of
10 drug-related laws in this state, including cannabis related laws, the Legislature of
11 Louisiana finds and declares that a program of social equity should be established.
12 The Legislature of Louisiana also finds and declares that individuals who have been
13 arrested or incarcerated due to drug laws suffer long-lasting negative consequences,
14 including impacts to employment, business ownership, housing, health, and long-
15 term financial well-being. The Legislature of Louisiana declares that promotion of
16 business ownership by individuals who have resided in areas of high poverty and
17 high enforcement of cannabis-related laws furthers an equitable cannabis industry.
18 Therefore, in the interest of remedying the harms resulting from the disproportionate
19 enforcement of cannabis-related laws, the Legislature of Louisiana finds and declares
20 that a cannabis equity program shall be developed and should offer, among other
21 things, financial assistance and license application benefits to individuals most
22 directly and adversely impacted by the enforcement of cannabis-related law who are
23 interested in starting cannabis business establishments.

24 §942. Definitions

25 (1) "Applicant" means a natural person, a corporation, limited liability
26 company, partnership, joint stock association, sole proprietorship, joint venture,
27 business association, cooperative association, professional corporation, or any other
28 legal entity or organization through which business is conducted that has applied to

1 the office of alcohol and tobacco control within the Department of Revenue for a
2 cannabis retailer permit.

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

6 (3) "Cannabis" means all parts of plants of the genus Cannabis, whether
7 growing or not, the seeds thereof, the resin extracted from any part of such plant, and
8 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
9 its seeds or resin, but shall not include the mature stalks of such plant, fiber produced
10 from such stalks, oil or cake made from the seeds of such plant, any other compound,
11 manufacture, salt, derivative, mixture, or preparation of such mature stalks (except
12 the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant
13 which is incapable of germination.

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

17 (5) "Commissioner" means the commissioner of alcohol and tobacco control
18 who shall be the assistant secretary of the office of alcohol and tobacco control in the
19 Department of Revenue.

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

28 (7) "Department" means the office of alcohol and tobacco control within the
29 Department of Revenue.

1 (8) "FBI" means the Federal Bureau of Investigation of the United States
2 Department of Justice.

3 (9) "Production facility" means a person who sells cannabis and cannabis
4 products to a licensed cannabis retailer exclusively, within the state, who conducts
5 a bona fide wholesale business and maintains a warehouse or warehouses for the
6 storage and warehousing of cannabis and cannabis products in the area where
7 domiciled and licensed by the state, and conducts and maintains systematic and
8 regular solicitations, distribution, deliveries, and sales of cannabis and cannabis
9 products to licensed retail dealers located within the boundary of this state.

10 §943. Permits

11 A.(1) The commissioner shall issue, as authorized by this Chapter, a
12 cannabis retailer permit and shall adopt rules and regulations that specify the
13 identifying information that is required to appear on the face of each permit. Prior
14 to selling, offering for sale, exposing for sale, or possessing for sale or distribution
15 cannabis in any quantity, a person shall obtain a permit in accordance with the
16 provisions of this Section.

17 (2) The commissioner shall develop rules for issuing retailer permits in
18 accordance with the Administrative Procedures Act to ensure the number of retailers
19 are equally distributed amongst each region of the state in accordance with this
20 Section. The department shall use, at a minimum, the following criteria to develop
21 such rules for issuing permits:

22 (a) Population distribution of each region.

23 (b) Preference to applicants residing in an area with a disproportionately high
24 number of nonviolent marijuana drug arrests and convictions.

25 (c) Preference to applicants who have resided in the state for at least five
26 years prior to the effective date of this Chapter.

27 B.(1) The commissioner shall issue a total of forty permits statewide, with
28 no more than five permits issued for any one geographic area covering the eight
29 regional planning commissions created pursuant to Subparts C and F of Part IV of

1 Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, except for as
2 provided in Paragraph (2) of this Subsection. A permit shall be valid for a period of
3 two years unless suspended or revoked pursuant to Chapter.

4 (2) The commissioner may issue more than the allowable statewide total of
5 permits if the market demands and requests necessitate such an increase; however,
6 the commissioner shall seek to maintain a statewide and regional balance of permits
7 issued.

8 (3) Permit holders shall contact the commissioner regarding the renewal of
9 all permits prior to the end of the term of the permit in accordance with the
10 provisions of this Chapter.

11 §944. Fees; disposition of funds

12 A. The department shall establish an application fee to be paid by an
13 applicant.

14 (1) The application fee shall not exceed two thousand five hundred dollars.

15 (2) The application fee shall be payable to the department upon submission
16 of the application, and prior to the department beginning any review and an applicant
17 submitting fingerprints.

18 B. The department shall establish a cannabis retailer permit fee to be paid by
19 the permittee in accordance with the following:

20 (1) The initial permit fee shall not exceed one hundred thousand dollars.
21 However, the department may reduce the amount of the fee only if the population
22 distribution is limited.

23 (2) The permit fee shall be payable to the department upon issuance of the
24 license. The permittee shall pay a renewal fee of fifty thousand dollars every year
25 thereafter.

26 C. All fees collected and retained by the department shall be used to fund the
27 expenses related to the regulation and control of cannabis and cannabis products as
28 provided for in this Chapter. The department shall use a portion of the application
29 fee to cover the expenses associated with obtaining an applicant's fingerprints and

1 criminal history record information and shall not charge an applicant any fee beyond
2 the application fee for these expenses.

3 §945. General requirements; authorizations to obtain criminal history record
4 information; qualifications; location; and ratios

5 A. An applicant for a retailer permit shall meet the following qualifications:

6 (1) Be twenty-one years of age or older.

7 (2) Provide proof of valid lease or ownership of premises in which the
8 business will be located.

9 B. As a condition of eligibility, the department shall require an applicant to
10 do the following:

11 (1) Submit a full set of fingerprints, in a form and manner prescribed by the
12 department.

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

15 C. In accordance with the provisions and procedure prescribed by this
16 Section, the department shall request and obtain state and national criminal history
17 record information from the bureau and the FBI relative to any applicant for
18 licensure whose fingerprints the department has obtained pursuant to this Section for
19 the purpose of determining the applicant's suitability and eligibility for a permit.

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

26 E. No retail location shall be located in a "drug free zone" as defined in R.S.
27 17:405(A).

1 F. Retail locations shall only sell cannabis and cannabis products and shall
2 not sell any other products or services besides cannabis and cannabis products. The
3 retail location shall have the following provisions:

4 (1) The location shall be supervised by a retailer employee at all times when
5 customers are present to ensure only persons who are twenty-one years of age and
6 older are permitted to enter.

7 (2) Retail employees shall make reasonable efforts to limit the number of
8 customers in relation to the number of employees present in the location at any time.

9 (3) If the applicant's business is to be conducted wholly or partly by one or
10 more managers, agents, servants, employees, or other representatives, those persons
11 shall also possess the qualifications required of the applicant and shall furnish
12 verification of suitability in accordance with the provisions of this Chapter.

13 G. The commissioner shall promulgate rules and regulations pursuant to the
14 provisions of the Administrative Procedure Act as necessary to implement the
15 provisions of this Section and any additional requirements.

16 §946. Suitability requirements

17 A. The department shall not grant any permit pursuant to the provisions of
18 this Chapter if the applicant or any officer, director, or any person having a five
19 percent or more economic interest in the entity seeking a permit has been
20 disqualified on the basis of the following criteria:

21 (1) Has been convicted or entered a plea of guilty or nolo contendere for any
22 of the following:

23 (a) Theft or attempted theft, illegal possession of stolen things, or any
24 offense or attempt involving the misappropriation of property or funds five years
25 from the date of application.

26 (b) Any offense involving fraud or attempted fraud or false statements or
27 declarations five years from the date of application.

28 (c) A crime of violence as defined in R.S. 14:2(B).

1 (d) Any offense involving Schedule I narcotics, provided the offense was not
2 marijuana related.

3 (2) There is a current prosecution or pending charge against the person in
4 any jurisdiction for any offense listed in Paragraph (1) of this Subsection.

5 (3) The applicant or any person required to be suitable pursuant to this
6 Section fails to provide information and documentation to reveal any fact material
7 to a suitability determination or supplies information which is untrue or misleading
8 as to a material fact pertaining to the suitability criteria.

9 §947. Age requirements

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

12 §948. Cannabis retailer restrictions

13 Cannabis retailers are prohibited from all of the following activities:

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

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

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

21 (4) The sale or giving away of any service that is not related to the sale of
22 cannabis or a cannabis product.

23 (5) Providing or allowing entertainment of any type on the premises of the
24 retail location.

25 §949. Suspension or revocations of retailer permits

26 A. No person holding a permit and no agent, associate, employee,
27 representative, or servant agent of any person, shall do or permit any of the following
28 acts to be done on or about the licensed premises:

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

4 (i) A valid, current Louisiana driver's license which contains a photograph
5 of the person presenting the driver's license. For the purposes of this Item, a
6 digitized credential through an electronic wallet, commonly known as "LA Wallet",
7 shall also be an acceptable form of a Louisiana driver's license.

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

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

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

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

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

22 (b) Each form of identification listed in Subparagraph (a) of this Paragraph
23 shall on its face establish the age of the person as twenty-one years of age or older,
24 and there shall be no reason to doubt the authenticity or correctness of the
25 identification. No form of identification mentioned in Subparagraph (a) of this
26 Paragraph shall be accepted as proof of age if it is expired, defaced, mutilated, or
27 altered. If the state identification card or lawful identification submitted is a
28 duplicate, the person shall submit additional identification which contains the name,
29 date of birth, and photograph of the person. A duplicate driver's license shall be

1 considered lawful identification for the purposes of this Paragraph, and a person shall
2 not be required to submit additional information containing the name, date of birth,
3 and picture of the person. In addition, an educational institution identification card,
4 check cashing identification card, or employee identification card shall not be
5 considered as lawful identification for the purposes of this Paragraph.

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

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

11 (3) Permit any prostitution activities on the licensed premises even if such
12 activities are permitted by law.

13 (4) Sell, offer for sale, possess, or permit the consumption on or about the
14 licensed premises of any kind or type of cannabis or cannabis products.

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

17 (6) Fail to keep the premises clean and sanitary.

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

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

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

26 C. A person who violates the provisions of this Section or any rule or
27 regulation of the commissioner, where no other penalty is provided for in this
28 Section, shall be fined not less than two thousand five hundred dollars nor more than
29 ten thousand dollars, imprisoned for not less than six months nor more than five

1 years, or both. Any such violation shall be sufficient cause for the suspension or
2 revocation of a permit.

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

7 Section 3.(A) The commissioner of agriculture and forestry shall initiate the
8 promulgation of all rules required by the provisions of Section 1 of this Act through the
9 notice of intent process provided by R.S. 49:953(A) prior to December 1, 2021.

10 (B) The commissioner of agriculture and forestry shall take no action to enforce the
11 provisions of Section 1 of this Act prior to the sixtieth day after the date of adoption of the
12 administrative rules required by this Section.

13 Section 4.(A) The commissioner of alcohol and tobacco control shall initiate the
14 promulgation of all rules required by the provisions of Section 2 of this Act through the
15 notice of intent process provided by R.S. 49:953(A) prior to December 1, 2021.

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

19 Section 5. Sections 1 through 4 of this Act shall take effect and become operative
20 if and when the Act which originated as House Bill No. 243 of this 2021 Regular Session
21 of the Legislature is enacted and becomes effective.

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 709 Engrossed

2021 Regular Session

Newell

Abstract: Provides for the regulation of the cultivation, manufacture, and retail sale of cannabis and cannabis products.

Proposed law creates a program of social equity in the cannabis industry for the purpose of offering financial assistance and license application benefits to individuals most directly and adversely impacted by enforcement of cannabis-related laws and who are interested in starting cannabis businesses.

Proposed law authorizes the Dept. of Agriculture and Forestry to create and issue up to 10 cannabis production facility licenses.

Proposed law defines "applicant", "bureau", "cannabis", "cannabis equity applicant", "cannabis equity licensee", "cannabis equity program", "commissioner", "criminal history record information", "cultivate", or "cultivating", "department", "FBI", "licensee", "licensure", "permit", "permittee", "production facility", and "retailer".

Proposed law requires applicants and subcontractors to undergo a state and national criminal background check and prohibits the department from issuing a license or approving a contract if the applicant, subcontractor, or any officer, director, or person with a 5% or more economic interest in the license has been convicted of or entered a guilty or nolo contendere plea for certain criminal offenses.

Proposed law requires each applicant of a production facility license and a retailer permit to pay an application fee not to exceed \$2,500, which will cover administrative costs, and each production facility licensee to pay an annual license fee not to exceed \$100,000.

Proposed law requires each production facility licensee to pay a suitability fee, which will be paid to the La. State Police, Gaming Division for the purpose of investigating a chosen licensee's qualifications and an annual \$50 permit fee for each person employed in the operation or supervision of the licensee's operation.

Proposed law requires the department to develop rules for the issuing of licenses based on a minimum criteria of the following:

- (1) Population distribution of the state.
- (2) Issue at least one license to a cannabis equity applicant qualified under the cannabis equity program for every one license issued to a non cannabis equity applicant.
- (3) Applicants who have resided in this state or owned the property on which the production facility will be located for at least five years prior to the effective date of this Act and have a stake of at least fifty-one percent ownership in the property.

Proposed law prohibits licensees from selling or transferring their license to another person that has not been a La. resident for at least five years prior to the sale or transfer or to an entity that does not have an ownership group made up of at least 51% of La. residents residing in the state at least five years prior to the sale or transfer.

Proposed law prohibits anyone from being licensed, or to contract, to cultivate, process, transport, or sale cannabis or cannabis products in the state that has been disqualified on the basis of the following:

- (1) Has been convicted or entered a plea of guilty or nolo contendere for any of the following:
 - (a) Theft or attempted theft, illegal possession of stolen things, or any offense or attempt involving the misappropriation of property or funds within five years from the date of application.
 - (b) Any offense involving fraud or attempted fraud or false statements or declarations within five years from the date of application.
 - (c) A crime of violence as defined in present law (R.S. 14:2(B)).
 - (d) Any offense involving Schedule I narcotics, provided the offense was not marijuana related.

- (2) There is a current prosecution or pending charge against the person in any jurisdiction for any offense listed in proposed law.
- (3) Fails to provide information and documentation to reveal any fact material to a suitability determination or supplies information which is untrue or misleading as to a material fact pertaining to the suitability criteria.

Proposed law allows for the transportation of cannabis and cannabis products in limited situations between licensees and establishes a \$250 contract carrier permit fee for any third party contracting with a licensee for the purpose of transporting cannabis and cannabis products.

Proposed law provides for civil penalties up to \$50,000 per violation per day based upon ruling of the commissioner of agriculture.

Proposed law clarifies that proposed law does not interfere with the rights of medical marijuana patients or licensed medical marijuana production facilities and requires the department to issue a production facility license to any current therapeutic marijuana license holder.

Proposed law requires the commissioner of the office of alcohol and tobacco control to issue cannabis retailer permits and requires such a permit prior to selling cannabis or cannabis products. Specifies that the retailer permit is valid for a two-year period. Limits the number of permits to be issued in the state to 40 total and requires no more than five per regional planning area of the state, but provides for situations where the commissioner may increase the total permits issued.

Proposed law requires an initial retailer permit fee not to exceed \$100,000, which may be reduced by the commissioner if the population distribution is limited, and an annual renewal fee of \$50,000 every year thereafter.

Proposed law requires applicants for a retailer permit to be at least 21 years of age or older, and prohibits anyone under the age of 21 from working in or entering the premises of a retailer. Requires any employee of a retailer to furnish verification to the permittee that the same suitability requirements as the permittee are met.

Proposed law restricts production facilities and retail locations from being located in a "drug free zone".

Proposed law includes additional restrictions, including the following prohibitions:

- (1) Selling more than one ounce of cannabis or cannabis products to any individual per calendar day.
- (2) Selling cannabis or cannabis products to persons under the age of 21. Requires certain forms of identification to be presented to the retailer.
- (3) Selling cannabis or cannabis products on the internet.
- (4) Giving away or selling any consumable that is not cannabis or cannabis products, including but not limited to, tobacco and alcohol products.
- (5) Selling any products or services other than cannabis or cannabis products.
- (6) Providing or permitting entertainment of any kind on the premises.
- (7) Permitting prostitution on the premises.

Proposed law outlines acceptable forms of identification for consumers to provide to retailers.

Proposed law authorizes the commissioner of alcohol and tobacco control to revoke or suspend permits for violations of proposed law. Establishes fines and penalties ranging from \$2,500 to \$10,000 and from six months to five years of jail time.

(Adds R.S. 3:4761-4771 and R.S. 26:941-949)