

2021 Regular Session

HOUSE BILL NO. 699 (Substitute for House Bill No. 524 by Representative Nelson)

BY REPRESENTATIVE NELSON

CONTROLLED SUBSTANCES: Provides for the decriminalization and regulation of marijuana for recreational purposes

1 AN ACT

2 To amend and reenact the heading of Title 26 of the Louisiana Revised Statutes of 1950,
3 R.S. 36:451(B) and 458(E), R.S. 40:966(B)(2)(introductory paragraph) and (D)(1)
4 and 1046(K), and R.S. 47:287.73(C)(1) and 301(10)(ii), to enact Division 5 of
5 Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of
6 1950, to be comprised of R.S. 14:93.21 through 93.26, Chapter 9 of Title 26 of the
7 Louisiana Revised Statutes of 1950, to be comprised of R.S. 26:941 through 965, and
8 R.S. 40:1046(L), and to repeal R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and
9 (F), relative to the legal status of marijuana; to repeal laws which criminalize the
10 possession of marijuana; to provide for a legal and regulatory framework relative to
11 production of cannabis products and sale of such products to consumers over a
12 certain age; to create and provide for crimes relating to unlawful sale, purchase, and
13 possession of cannabis products; to revise the heading of Title 26 of the Louisiana
14 Revised Statues of 1950; to require and provide specifications for state regulation of
15 cultivation, processing, and manufacturing of cannabis products; to require and
16 provide specifications for state regulation of the retail sale of cannabis products; to
17 require licensing by the state of cannabis retailers; to require licensure by the state
18 of cannabis commercial growers, cannabis processors, and cannabis contract carriers;
19 to create and provide requirements associated with licenses to be issued by the state
20 to allow cultivation and possession of cannabis plants by individuals for personal

1 use; to require promulgation of administrative rules; to provide for definitions; to
2 provide for products that holders of licenses associated with medical marijuana may
3 sell; to provide relative to the taxability of such products; to allow local governments
4 to limit the issuance of licenses within their jurisdiction; to provide for applicability;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

10 5. UNLAWFUL SALE, PURCHASE, AND POSSESSION

11 OF CANNABIS PRODUCTS

12 §93.21. Definitions

13 For purposes of R.S. 14:93.21 through 93.26, the following definitions apply:

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

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

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

20 (i) For an established religious purpose.

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

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

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

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

1 §93.22. Unlawful sale of cannabis to persons under twenty-one

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

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

8 §93.23. Purchase and public possession of cannabis products; exceptions; penalties

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

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

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

18 §93.24. Unlawful purchase of cannabis products by persons on behalf of persons
19 under twenty-one

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

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

25 §93.25. Illegal possession of marijuana without a license

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

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

4 §93.26. Responsibilities of cannabis retailers not relieved

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

8 Section 2. The heading of Title 26 of the Louisiana Revised Statutes of 1950 is
9 hereby amended and reenacted and Chapter 9 of Title 26 of the Louisiana Revised Statutes
10 of 1950, comprised of R.S. 26:941 through 965, is hereby enacted to read as follows:

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

13 * * *

14 CHAPTER 9. CANNABIS AND CANNABIS PRODUCTS

15 PART I. GENERAL PROVISIONS

16 §941. Definitions

17 For purposes of this Chapter, the following words have the following
18 meanings unless the context clearly indicates otherwise:

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

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

28 (3) "Cannabis" means all parts of plants of the genus Cannabis, whether
29 growing or not, the seeds thereof, the resin extracted from any part of such plant, and

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
2 its seeds, or resin, but shall not include the mature stalks of such plant, fiber
3 produced from such stalks, oil or cake made from the seeds of such plant, any other
4 compound, manufacture, salt, derivative, mixture, or preparation of such mature
5 stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed
6 of such plant which is incapable of germination. Cannabis shall not include
7 industrial hemp that is in the possession, custody, or control of a person who holds
8 a license issued by the Department of Agriculture and Forestry, or is cultivated and
9 processed in accordance with the U.S. Agriculture Improvement Act of 2018.

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

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

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

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

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

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

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

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

9 (12) "Licensee" means a natural person, a corporation, limited liability
10 company, partnership, joint stock association, sole proprietorship, joint venture,
11 business association, cooperative association, professional corporation, or any other
12 legal entity or organization through which business is conducted who has been issued
13 a license by the office of alcohol and tobacco control pursuant to the provisions of
14 this Chapter.

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

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

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

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

26 PART II. CULTIVATION, PROCESSING,
27 AND MANUFACTURING OF CANNABIS

1 §951. Purpose

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

5 §952. General requirements; prohibitions; testing; tracking

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

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

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

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

18 §953. Powers and duties of the commissioner

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) Each cannabis commercial grower licensee shall complete a monthly
14 yield and sales report to the office by the fifteenth of each month and provide
15 reporting on the previous month. Each report shall include, at a minimum, the
16 following information:

17 (i) Amount of cannabis harvested in pounds.

18 (ii) Amount of usable cannabis on hand.

19 (iii) Amount of cannabis and usable cannabis sold to processors in pounds.

20 (iv) Amount of usable cannabis sold to retailers in pounds.

21 (v) Total amount of wholesale sales in dollars.

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

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

28 (f) There shall be no limit on the amount of cannabis that a licensed cannabis
29 commercial grower may grow pursuant to the provisions of this Part.

1 (g) The office may randomly inspect the operation, including business
2 records and the cannabis crop, of any licensed cannabis commercial grower if any
3 duly authorized officer or employee of the department has reason to believe that a
4 violation of this Part has occurred.

5 (h) The office may enter into a cooperative endeavor agreement with the
6 Department of Agriculture and Forestry to ensure that the cannabis seed complies
7 with the standards for seeds set by the Agricultural Chemistry and Seed Commission.

8 (2)(a) A cannabis processor license, which shall authorize the licensee to
9 handle, process, and transport cannabis and cannabis products in this state.

10 (b) For purposes of this Paragraph, "process" means the converting of
11 cannabis into cannabis products.

12 (c)(i) The office shall promulgate rules for the preparation of cannabis
13 products. The rules shall not be excessive or punitive in nature.

14 (ii) Any facility that processes cannabis shall be subject to inspection by the
15 office in accordance with the rules established pursuant to this Subparagraph. The
16 office may conduct such inspections once per year or upon reasonable belief that a
17 violation of this Part has occurred. If any deficiency is found, the office shall issue
18 a written deficiency report to the processor. The processor shall correct the
19 deficiency within thirty days of receipt of the deficiency report or be subject to
20 license suspension or revocation.

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

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

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

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

3 (iii) Total amount of wholesale sales in dollars.

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

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

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

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

18 (4) A cannabis retailer license, which shall authorize the licensee to sell,
19 offer to sell, expose for sale or possess for the sale of cannabis in accordance with
20 the provisions of this Part.

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

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

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

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

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

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

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

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

20 §955. Suitability requirements

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

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

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

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

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

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

8 §956. Fees

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

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

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

16 §957. Issuance of licenses to medical marijuana production facilities

17 Notwithstanding any provision of R.S. 26:954 through 956, the office shall
18 issue a cannabis commercial grower license, cannabis processor license, and
19 cannabis contract carrier license to each entity that, pursuant to R.S. 40:1046,
20 participated in a competitive public bid process and was awarded and entered into
21 a contract with either the Louisiana State University Agricultural Center or the
22 Southern University Agricultural Center for the cultivation, extraction, and
23 production of therapeutic cannabis in Louisiana without necessity of an application
24 for the licenses. The office shall issue the licenses to the entity free of charge.

25 §958. Personal cultivation licenses

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

28 (2) The license shall authorize the licensee to cultivate and possess up to six
29 cannabis plants for personal consumption.

1 (3) The license shall not authorize the licensee to sell any part of a cannabis
2 plant to any person.

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

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

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

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

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

18 §959. Therapeutic marijuana

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

22 §960. Issuance of licenses to marijuana pharmacies

23 Notwithstanding the provisions of R.S. 26:954, the commissioner shall issue
24 a cannabis retailer license to each entity that holds a marijuana pharmacy license
25 issued pursuant to R.S. 40:1046 without necessity of an application for the license.

26 The commissioner shall issue the license to the entity free of charge.

27 §961. Cannabis retail establishments; age requirements for entry

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

1 §962. Cannabis retailer restrictions2 Cannabis retailers shall be prohibited from all of the following activities:3 (1) The sale of more than one ounce of cannabis or cannabis products to any
4 individual per calendar day.5 (2) The sale of cannabis or cannabis products over the internet. All sales of
6 cannabis and cannabis products shall take place within a cannabis retail location.7 (3) The sale or giving away of any consumable that is not cannabis or a
8 cannabis product, including but not limited to cigarettes or tobacco products,
9 alcoholic beverages, food products, and non-alcohol beverages.10 (4) Advertising in violation of R.S. 26:963.11 §963. Advertisement by cannabis retailers; limitations; certain advertising
12 prohibited13 A.(1) No cannabis retailer shall advertise through any means other than a
14 single internet website and signage at its premises that conforms with the standards
15 provided in Subsection B of this Section.16 (2) Except as allowed by Paragraph (1) of this Subsection, each cannabis
17 retailer is specifically prohibited from advertising through public media including,
18 without limitation, newspapers, billboards, television, radio, social media, and
19 internet advertising on any website other than the single site allowed by Paragraph
20 (1) of this Subsection.21 B. A cannabis retailer may attach a maximum of two separate signs to the
22 exterior of its premises which identify the business by its business or trade name.
23 No such sign shall exceed one thousand six hundred square inches in size.24 §964. Suspension and revocation of retailer licenses25 A. No person holding a license issued in accordance with the provisions of
26 this Part and no agent, associate, employee, representative, or servant agent of any
27 person, shall do or permit any of the following acts to be done on or about the
28 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, the retailer shall
3 obtain any one of the following from the consumer:

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

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

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

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

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

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

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

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

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

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

10 (4) Permit any prostitution activities on the premises.

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

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

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

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

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

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

24 C. A person who commits any violation of the provisions of this Section, or
25 any rule or regulation of the commissioner, for which no other penalty is provided
26 in this Section shall be imprisoned for not less than thirty days nor more than six
27 months. Such violation shall also be sufficient cause for the suspension or
28 revocation of a license.

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

5 §965. Prohibited issuance of license

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

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

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

13 * * *

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

20 * * *

21 §458. Offices; purposes and functions

22 * * *

23 E. The office of alcohol and tobacco control shall perform, in accordance
24 with the applicable laws and under the direction of the commissioner, the functions
25 of the state relating to the regulation of the sale of alcoholic beverages in the state,
26 including certification of persons eligible for the issuance and renewal of licenses
27 required by law for persons engaging in the business of dealing in beverages of high
28 or low alcoholic content, and the administration of the law relating to alcoholic
29 beverages and their sale, and regulation and control of marijuana other than medical

1 marijuana produced in accordance with R.S. 40:1046. Whenever the commissioner
2 deems necessary, he may reassign the responsibility for the collection of a tax or
3 other duty assigned by this Subsection to this office to another office within the
4 department created by this Section.

5 * * *

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

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

11 * * *

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

14 * * *

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

18 * * *

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

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

27 * * *

1 §1046. Recommendation and dispensing of marijuana for therapeutic use; rules and
2 regulations of the Louisiana State Board of Medical Examiners and
3 Louisiana Board of Pharmacy; production facility licensing by the
4 Department of Agriculture and Forestry

5 * * *

6 K.(1)(a) Each holder of a license for production of marijuana for therapeutic
7 use issued in accordance with Subsection H of this Section who would qualify for
8 any license pursuant to R.S. 26:954 after the date of enactment of Chapter 9 of Title
9 26 of the Louisiana Revised Statutes of 1950, but before the date upon which the
10 office of alcohol and tobacco control adopts administrative rules to create such a
11 license, may sell cannabis and cannabis products, as defined in R.S. 26:941, to any
12 holder of a marijuana pharmacy license issued in accordance with Subsection G of
13 this Section.

14 (b) Each holder of a marijuana pharmacy license issued in accordance with
15 Subsection G of this Section who would qualify for a cannabis retailer license
16 pursuant to R.S. 26:954 after the date of enactment of Chapter 9 of Title 26 of the
17 Louisiana Revised Statutes of 1950, but before the date upon which the office of
18 alcohol and tobacco control adopts administrative rules to create such a license, may
19 engage in retail sale of cannabis and cannabis products as defined in R.S. 26:941.

20 (2)(a) No sale of any cannabis or cannabis product, as defined in R.S.
21 26:941, authorized by Paragraph (1) of this Subsection shall qualify for any
22 exemption or exclusion from taxation provided in R.S. 47:302(BB), 321(P), 321.1(D),
23 331(V), or in any other provision of Subtitle II of Title 47 of the Louisiana Revised
24 Statutes of 1950.

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

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

28 §287.73. Modifications to deductions from gross income allowed by federal law

29 * * *

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

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

10 (b) No cannabis or cannabis product sold pursuant to the authority of R.S.
11 40:1046(K) shall be deemed "marijuana recommended for therapeutic use" for
12 purposes of this Paragraph.

13 * * *

14 §301. Definitions

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

18 * * *

19 (10)

20 * * *

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

25 (ii) The exception provided in Item (i) of this Subparagraph shall not apply
26 to the sale of any cannabis or cannabis product authorized by the provisions of R.S.
27 40:1046(K).

28 * * *

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

3 Section 7.(A) The commissioner of alcohol and tobacco control shall solicit broad
4 public input and participation in developing the framework for regulation of cannabis
5 retailers, cultivators, commercial growers, seed producers, contract carriers, and processors
6 of cannabis products as provided for in Section 2 of this Act.

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

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

13 Section 8.(A) The commissioner of the office of alcohol and tobacco control shall
14 solicit broad public input and participation in developing the framework for regulation of
15 cultivators, commercial growers, seed producers, contract carriers, and processors of
16 cannabis and cannabis products provided for in Section 3 of this Act.

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

20 (C) The commissioner of the office of alcohol and tobacco control shall take no
21 action to enforce the provisions of Section 3 of this Act prior to the sixtieth day after the date
22 of adoption of the administrative rules required by this Section.

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

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

4 Section 10. If any provision of this Act or the application thereof is held invalid,
5 such invalidity shall not affect other provisions or applications of this Act which can be
6 given effect without the invalid provisions or applications, and to this end the provisions of
7 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 699 Original

2021 Regular Session

Nelson

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.
- (4) A cannabis retailer license, which shall authorize the licensee to sell, offer to sell, expose for sale, or possess for sale of cannabis.

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 license for cultivation and possession of cannabis plants by individuals for personal use. Provides that the license shall authorize the licensee to cultivate and possess up to six cannabis plants for personal consumption. Stipulates that the license shall not authorize the licensee 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 license.

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

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 license and adopt rules and regulations pertaining to the license. 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 license in accordance with the provisions of proposed law.

Proposed law requires that an applicant for a retailer license 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 license 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 license.

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 licenses. 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 license.
- (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 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 1046(K), and R.S. 47:287.73(C)(1) and 301(10)(ii); Adds R.S. 14:93.21-26, R.S. 26:941-965, and R.S. 40:1046(L); Repeals R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F))