

2022 Regular Session

HOUSE BILL NO. 553

BY REPRESENTATIVE MCKNIGHT

MEDICAL MARIJUANA: Provides relative to suitability requirements for persons associated with medical marijuana production

1 AN ACT

2 To amend and reenact R.S. 40:1047(A)(introductory paragraph) and (2) , (B), and (C), and
3 to repeal R.S. 40:1047(A)(3) through (6), (D), and (E), relative to suitability
4 requirements for persons associated with production of therapeutic marijuana; to
5 provide for definitions; to prohibit government agencies from conducting suitability
6 investigations as a requirement for licensure to produce therapeutic marijuana; to
7 require employees of contractors to submit to criminal background checks; to permit
8 contractors to conduct background checks as a condition of employment; to provide
9 for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1047(A)(introductory paragraph) and (2) and (B) and (C) are
12 hereby amended and reenacted to read as follows:

13 §1047. ~~Louisiana Department of Agriculture and Forestry~~ Permits relating to
14 production of therapeutic marijuana; contractors of licensed producers;
15 permit application requirements; authorization for Department of Agriculture
16 and Forestry to obtain criminal history record information

17 A. As used in this Section, the following terms ~~shall~~ have the ~~following~~
18 meaning ascribed in this Subsection:

19 * * *

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

1 (2) ~~"Bureau" means the Louisiana Bureau of Criminal Identification and~~
2 ~~Information of the office of state police within the Department of Public Safety and~~
3 ~~Corrections. "Contractor" means any person, partnership, joint venture, limited~~
4 ~~liability company, corporation, association, joint stock association, sole~~
5 ~~proprietorship, trust, other business entity, or juridical person whether incorporated~~
6 ~~or not selected by either the Louisiana State University Agricultural Center or the~~
7 ~~Southern University Agricultural Center through a competitive bid process to~~
8 ~~cultivate, extract, process, produce, and transport therapeutic marijuana.~~

9 B. (1) In addition to any other requirements established by department rules,
10 ~~the department shall require an applicant, as a condition of eligibility for licensure:~~
11 No applicant for a specialty license or permit for the production of recommended
12 marijuana for therapeutic use issued pursuant to R.S. 40:1046(H) or a contractor
13 shall be required to undergo a suitability investigation conducted by any government
14 agency as a prerequisite to obtaining a license or permit.

15 ~~(1) To submit a full set of fingerprints, in a form and manner prescribed by~~
16 ~~the department.~~

17 (2) ~~To permit the department to request and obtain state and national~~
18 ~~criminal history record information on the applicant. A contractor shall submit to a~~
19 criminal history background check conducted by a government agency or private
20 entity subject to any applicable terms and conditions of the contract between the
21 university licensee and contractor. The requirement to undergo a criminal history
22 background check shall be limited to employees of a contractor for the production
23 of recommended marijuana for therapeutic use. The government agency designated
24 to regulate licensees for the production of recommended marijuana for therapeutic
25 use pursuant to R.S. 40:1046 shall issue a provisional permit to the contractor and
26 shall be converted to an unconditional permit upon successful completion of the
27 criminal history background check.

1 ~~(3) To pay the reasonable costs to be incurred by the department in~~
2 ~~requesting and obtaining state and national criminal history record information on~~
3 ~~the applicant.~~

4 C. ~~In accordance with the provisions and procedure prescribed by this~~
5 ~~Section, the department shall request and obtain state and national criminal history~~
6 ~~record information from the bureau and the FBI relative to any applicant for~~
7 ~~licensure whose fingerprints the department has obtained pursuant to this Section for~~
8 ~~the purpose of determining the applicant's suitability and eligibility for licensure.~~
9 Unless otherwise provided by law, nothing in this Section shall be construed to limit
10 or prohibit a contractor from considering the results of a background check of a
11 prospective employee in making the final determination of whether to employ the
12 person.

13 Section 2. R.S. 40:1047(A)(3) through (6), (D), and (E) are hereby repealed in their
14 entirety.

15 Section 3. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

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 553 Reengrossed 2022 Regular Session McKnight

Abstract: Provides for suitability requirements, based upon criminal history record information, for contractors of licensed producers of medical marijuana.

Present law provides for a process by which the La. Dept. of Agriculture and Forestry (LDAF) determines the suitability of applicants for licensure as a medical marijuana production facility by way of fingerprinting and conducting state and federal background checks through the La. State Police and Federal Bureau of Investigation.

Proposed law modifies present law by removing the LDAF as the regulatory agency to determine suitability and prohibits any government agency from requiring a suitability check

as a condition for licensure or permitting as an applicant or contractor to produce marijuana for therapeutic use.

Proposed law requires the employees of a contractor to submit to a criminal background check conducted by the regulatory agency over licensees for the production of recommended marijuana for therapeutic use or a private entity in order to be permitted to work.

Proposed law adds the term "contractor" and defines it as any person, partnership, joint venture, limited liability company, corporation, association, joint stock association, sole proprietorship, trust, other business entity, or juridical person whether incorporated or not selected by either the LSU AgCenter or the Southern Univ. AgCenter through a competitive bid process to cultivate, extract, process, produce, and transport therapeutic marijuana.

Proposed law repeals present law as it pertains to the process, procedures, and fees for obtaining fingerprints, conducting background checks, and accessing reports provided by La. State Police. Proposed law repeals the definitions of "criminal history record information", "department", "FBI", and "licensure".

Proposed law authorizes contractors to still conduct background checks for the purpose of hiring employees.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1047(A)(intro. para.) and (2), (B), and (C); Repeals R.S. 40:1047(A)(3)-(6), (D), and (E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Retain the term "applicant".
2. Repeal or remove the following terms and definitions: "criminal history record", "department", "division", "exercise significant influence", "permit", and "therapeutic marijuana" or "medical marijuana".
3. Remove the persons required to obtain a permit from the regulatory agency.
4. Remove the requirements a person applying for a permit must do.
5. Remove the criteria by which an applicant is denied a permit.
6. Remove the criteria relating to permit renewal.
7. Remove the criteria by which a regulatory agency may deny, suspend, or revoke a permit issued.
8. Repeal present law provisions relative to the processes and procedures whereby a regulatory agency can request and obtain fingerprints and a background check for the purposes of satisfying suitability in order to issue a license or permit.
9. Remove the La. Dept. of Agriculture and Forestry as the state regulatory agency for conducting suitability investigations.
10. Prohibit any government agency from requiring an applicant for a specialty license or permit for the production of recommended marijuana for therapeutic

use to undergo a suitability investigation or submit to a criminal background check as a criteria for obtaining a license or permit.

11. Authorize a contractor to conduct background checks on prospective employees for the purpose of making an employment decision.
12. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Remove the prohibition against conducting criminal background checks on applicants and contractors by government agencies.
2. Require employees of contractors to submit to criminal background checks prior to receiving a permit to work.
3. Make technical changes.