

The House Committee on Health offers the following substitute to HB 227:

A BILL TO BE ENTITLED  
AN ACT

1 To amend various provisions of the Official Code of Georgia Annotated so as to rename low  
2 THC oil as medical cannabis; to amend Chapter 12 of Title 16, Article 2 of Chapter 13 of  
3 Title 16, and Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated,  
4 relating to offenses against the public health and morals, regulation of controlled substances,  
5 and general provisions relative to the Department of Public Health, respectively, so as to  
6 clarify and revise criminal penalties; to clarify and revise exemptions to criminal penalties;  
7 to revise the duties of the Georgia Access to Medical Cannabis Commission; to provide for  
8 the provision of certain information by licensees; to provide limitations on the provision of  
9 such information; to exclude the lawful possession and control of medical cannabis from the  
10 provisions of the Georgia Controlled Substances Act; to revise the existing diagnosed  
11 conditions for which a medical cannabis registration card can be issued; to provide for  
12 conforming changes; to provide definitions; to provide a short title; to provide for related  
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 227 (SUB)

- 1 -

**PART I****SECTION 1-1.**

This Act shall be known and may be cited as the 'Putting Georgia's Patients First Act.'

**PART II****SECTION 2-1.**

Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by replacing "low THC oil" and "Low THC oil" with "medical cannabis" and "Medical cannabis", respectively, wherever such terms occur in:

(1) Code Section 2-11-36, relating to seeds used in production of low THC oil;

(2) Code Section 2-23-9.2, relating to consumable hemp products, packaging, advertising, and distribution; and

(3) Code Section 2-23-9.3, relating to location of retail establishments selling or distributing consumable hemp products.

**SECTION 2-2.**

Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to access to medical cannabis, is amended by replacing "low THC oil" and "Low THC oil" with "medical cannabis" and "Medical cannabis", respectively, and by replacing "Low THC Oil Patient Registry" with "Medical Cannabis Patient Registry", wherever such terms occur in:

(1) Code Section 16-12-201, relating to prohibition against producing, growing, manufacturing, or dispensing low THC oil or products;

(2) Code Section 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to Medical Cannabis Commission;

- (3) Code Section 16-12-204, relating to nontransferable designated university licenses to produce low THC oil and products, research and reporting of collected information, and license revocation;
- (4) Code Section 16-12-206, relating to annual, nontransferable dispensing license, adoption of rules, and fees;
- (5) Code Section 16-12-210, relating to powers, duties, and responsibilities of the Georgia Access to Medical Cannabis Commission, no undue burden on patients, and remission of fees;
- (6) Code Section 16-12-211, relating to class 1 production licenses, application fees, revocation, and limitation on ownership;
- (7) Code Section 16-12-212, relating to class 2 production licenses, application fee, revocation, and limitation on ownership;
- (8) Code Section 16-12-213, relating to tracking system requirements;
- (9) Code Section 16-12-216, relating to Bureau of Investigation, Access to Medical Cannabis Commission, and Composite Medical Board to jointly establish procedures to ensure compliance;
- (10) Code Section 16-12-217, relating to on-demand access to facilities, provision of samples, testing, and secured transportation;
- (11) Code Section 16-12-224, relating to limitation on ownership by member or former member of the Georgia Access to Medical Cannabis Commission, limitation on physician's involvement, and identification when contributing to political campaigns;
- (12) Code Section 16-12-225, relating to criminal offenses and penalties;
- (13) Code Section 16-12-226, relating to sales and use taxes applicable;
- (14) Code Section 16-12-230, relating to requirements for dispensing low THC oil and products;
- (15) Code Section 16-12-231, relating to exemptions from arrest, prosecutions, or penalty;

(16) Code Section 16-12-233, relating to contracts not against public policy;

(17) Code Section 16-12-234, relating to unlawful ways to ingest low THC oil or products;

(18) Code Section 16-12-235, relating to research in compliance with federal regulations; and

(19) Code Section 16-12-235.1, relating to possession of low THC oil and products by colleges and universities for research purposes, permitting requirements, and inspection.

### **SECTION 2-3.**

Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Public Health, is amended in Code Section 31-2A-18, relating to low THC oil patient registry, registration cards, reports, waiver forms, and annual review and recommendations, by replacing "low THC oil" and "Low THC oil" with "medical cannabis" and "Medical cannabis", respectively, and by replacing "Low THC Oil Patient Registry" with "Medical Cannabis Patient Registry" wherever such terms occur.

### **SECTION 2-4.**

Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to torts, is amended in Code Section 51-1-29.6, relating to liability of healthcare institutions and providers regarding low THC oil, by replacing "low THC oil" and "Low THC oil" with "medical cannabis" and "Medical cannabis", respectively.

**PART III**  
**SECTION 3-1.**

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, is amended by revising Article 8, relating to regulation of low THC oil, as follows:

**"ARTICLE 8**

16-12-190.

As used in this article, the term:

(1) 'Medical cannabis' ~~'low THC oil'~~ means an oil that contains an amount of cannabidiol and not more than 5 percent by weight of tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant material exhibiting the external morphological features of the plant of the genus Cannabis. Such term shall not ~~mean~~ include:

(A) Goods ~~products~~ approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act; or

(B) Hemp or hemp products, as such terms are defined in Code Section 2-23-3.

(2) 'Product' shall have the same meaning as set forth in Code Section 16-12-200.

16-12-191.

(a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any person to possess, purchase, or have under his or her control 20 fluid ounces or less of ~~low THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis if such ~~substance~~ medical cannabis or product or products is in a

pharmaceutical container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol therein and:

(A) Such person is registered with the Department of Public Health as set forth in Code Section 31-2A-18 and has in his or her possession a registration card issued by the Department of Public Health; or

(B) Such person has in his or her possession a registration card issued by another state that allows the same possession of ~~low-THC oil~~ medical cannabis as provided by this state's law; provided, however, that such registration card shall not be lawful authority when such person has been present in this state for 45 days or more.

(2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses, purchases, or has under his or her control 20 fluid ounces or less of ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis without complying with paragraph (1) of this subsection shall be punished as for a misdemeanor.

(b)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any person to possess, purchase, or have under his or her control 20 fluid ounces or less of ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis if:

(A) Such person is involved in a clinical research program being conducted by the Board of Regents of the University System of Georgia or any authorized clinical trial or research study in this state or ~~their~~ its authorized agent as:

(i) A program participant;

(ii) A parent, guardian, or legal custodian of a program participant;

(iii) An employee of the board of regents designated to participate in the research program;

(iv) A program agent;

(v) A program collaborator and ~~their~~ its designated employees;

(vi) A program supplier and ~~their~~ its designated employees;

(vii) A program physician;

(viii) A program clinical researcher;

(ix) Program pharmacy personnel; or

(x) Other program medical personnel; and

(B) Such ~~substance~~ medical cannabis or product or products is in a pharmaceutical container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol therein.

(2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses, purchases, or has under his or her control 20 fluid ounces or less of ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis without complying with ~~subparagraphs (A), (B), and (C)~~ of paragraph (1) of this subsection shall be punished as for a misdemeanor.

(c) Notwithstanding any provision of Chapter 13 of this title, any person having possession of, purchasing, or having under his or her control more than 20 fluid ounces of ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis or who manufactures, distributes, dispenses, sells, purchases, or possesses with the intent to distribute ~~low-THC oil~~ medical cannabis shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years, a fine not to exceed \$50,000.00, or both.

(d) Notwithstanding any provision of Chapter 13 of this title, any person who sells, manufactures, delivers, brings into this state, purchases, or has possession of 160 or more fluid ounces of ~~low-THC oil~~ medical cannabis or a product or products containing an equivalent amount of medical cannabis shall be guilty of the felony offense of trafficking in ~~low-THC oil~~ medical cannabis and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of ~~low-THC oil~~ medical cannabis is at least 160 fluid ounces but less than 31,000 fluid ounces, or the product or products contain an equivalent amount of medical cannabis, by imprisonment for not less than five years nor more than ten years and a fine not to exceed \$100,000.00;

(2) If the quantity of ~~low-THC oil~~ medical cannabis is at least 31,000 fluid ounces but less than 154,000 fluid ounces, or the product or products contain an equivalent amount of medical cannabis, by imprisonment for not less than seven years nor more than 15 years and a fine not to exceed \$250,000.00; and

(3) If the quantity of ~~low-THC oil~~ medical cannabis is 154,000 or more fluid ounces, or the product or products contain an equivalent amount of medical cannabis, by imprisonment for not less than ten years nor more than 20 years and a fine not to exceed \$1 million.

(e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a research program being conducted by the Board of Regents of the University System of Georgia or its authorized agent as an employee of the board of regents designated to participate in such program, a program agent, a program collaborator and ~~their~~ its designated employees, a program supplier and ~~their~~ its designated employees, a physician, clinical researcher, pharmacy personnel, or other medical personnel.

(f) Subsections (c) and (d) of this Code section shall not apply to a designated university, pharmacy, or licensee under Article 9 of Chapter 12 of Title 16, provided that such possession, purchase, control, sale, manufacturing, distribution, or dispensing is solely conducted in accordance with the provisions of Article 9 of Chapter 12 of Title 16.

(g) Nothing in this article shall require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, purchase, sale, or growing of marijuana in any form, or to affect the ability of an employer to have a written zero tolerance policy prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any



employee from having a detectable amount of marijuana in such employee's system while at work."

### SECTION 3-2.

Said chapter is further amended by revising Code Section 16-12-200, relating to definitions relative to access to medical cannabis, as follows:

"16-12-200.

As used in this article, the term:

(1) 'Applicant' means a corporate entity applying for a license pursuant to this article.

(2) 'Available capital' means corporate assets that are available to fund business operations in the event a license is awarded pursuant to Part 2 of this article.

(3) 'Class 1 production license' means a license to produce and manufacture ~~low-THC oil~~ medical cannabis and products issued pursuant to Code Section 16-12-211.

(4) 'Class 2 production license' means a license to produce and manufacture ~~low-THC oil~~ medical cannabis and products issued pursuant to Code Section 16-12-212.

(5) 'Commission' means the Georgia Access to Medical Cannabis Commission created pursuant to Code Section 16-12-202.

(6) 'Designated universities' means the University of Georgia and Fort Valley State University.

(7) 'Designated university license' means a license issued by the commission pursuant to this article to a designated university to, separately or jointly, produce, manufacture, and purchase ~~low-THC oil~~ medical cannabis and products in accordance with this article.

(8) 'Dispense' means the sale or provision of ~~low-THC oil~~ medical cannabis and products to registered patients by a dispensing licensee.

(9) 'Dispensing license' means a specialty license issued by the State Board of Pharmacy or the commission pursuant to Code Section 16-12-206 to dispense ~~low-THC oil~~ medical cannabis and products to registered patients.

(10) 'Grow' means cultivating and harvesting cannabis for use in producing ~~low-THC oil~~ medical cannabis and products.

(11) 'Licensee' means any business, or owner of such business, with a valid license issued pursuant to this article.

(12) ~~'Low-THC oil' shall have the same meaning as set forth in Code Section 16-12-190.~~

~~(13) 'Manufacture' means to process cannabis to produce low-THC oil~~ medical cannabis and products.

(13) 'Medical cannabis' shall have the same meaning as set forth in Code Section 16-12-190.

(14) 'Owner' means any person who directly or indirectly owns, actually or beneficially, or controls 5 percent or greater of interests of the applicant or any licensee. In the event that one person owns a beneficial right to interests and another person holds the voting rights with respect to such interests, then both shall be considered an owner of such interests.

(15) 'Product' means ~~low-THC oil~~ medical cannabis delivered through an oil, tincture, transdermal patch, lotion, or capsule, except as prohibited by Code Section 16-12-234, but not including hemp products, as such term is defined in Code Section 2-23-3, or any food products infused with ~~low-THC oil~~ medical cannabis, including, but not limited to, cookies, candies, or edibles.

(16) 'Registered patient' means an individual who is legally authorized to possess and use ~~low-THC oil~~ medical cannabis and products pursuant to Code Section 31-2A-18.

(17) 'Tracking system' means a seed-to-sale tracking system to track marijuana that is grown, processed, manufactured, transferred, stored, or disposed of and ~~low-THC oil~~ medical cannabis and products that are transferred, stored, sold, dispensed, or disposed of pursuant to this article."

**SECTION 3-3.**

Said chapter is further amended in Code Section 16-12-203, relating to the powers, duties, and responsibilities of the Georgia Access to Medical Cannabis Commission, by adding a new paragraph to read as follows:

"(10.1) To engage in public awareness activities concerning the medical cannabis program in this state and effective uses of medical cannabis and products, including, but not limited to, publishing materials and conducting outreach and public education activities to inform members of the public, law enforcement, and healthcare providers about the medical cannabis program in this state and the potential benefits that medical cannabis and products may have to eligible patients;"

**SECTION 3-4.**

Said chapter is further amended by revising Code Section 16-12-215, relating to limitations on locations, advertising or marketing prohibited, and information available to physicians, as follows:

"16-12-215.

(a) No licensee shall operate in any location, whether for cultivation, harvesting, and processing of marijuana or for processing, manufacturing, packaging, or distributing ~~low~~ ~~THC oil~~ medical cannabis or products, within a 3,000 foot radius of a covered entity, measured from property boundary to property boundary. No dispensing licensee may operate in any location within a 1,000 foot radius of a covered entity, measured from property boundary to property boundary. Notwithstanding the provisions of this subsection, local governments may, via use of existing zoning powers otherwise provided by law, allow dispensing licensees only to locate in places other than those provided in this subsection so long as such modification is needed to allow retail outlets to be established to service registered patients residing within such local jurisdiction. As used in this subsection, the term 'covered entity' means a public or private school; an early care and

education program as defined in Code Section 20-1A-2; or a church, synagogue, or other place of public religious worship, in existence prior to the date of licensure of such licensee by the commission or State Board of Pharmacy.

(b)(1) No licensee shall advertise or market ~~low-THC oil~~ medical cannabis or products to registered patients or the public; provided, however, that a licensee shall be authorized to provide information regarding its ~~low-THC oil~~ medical cannabis and products directly to physicians, registered patients, and caregivers; provided, further, that such information shall be subject to and meet the requirements set forth in the rules and regulations promulgated by the commission pursuant to paragraph (2) of this subsection.

(2) The commission shall promulgate rules and regulations governing information provided by licensees under paragraph (1) of this subsection to ensure that such information:

(A) Does not include medical claims that are unsupported by reliable scientific evidence;

(B) Does not make any false or misleading claim;

(C) Is not attractive to children or otherwise directly or indirectly targeted to children;  
and

(D) Is not otherwise unfair and deceptive or harmful to the public."

### SECTION 3-5.

Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to regulation of controlled substances, is amended in Code Section 16-13-21, relating to definitions, by revising paragraph (16) as follows:

"(16) 'Marijuana' means all parts of the plant 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 samples as described in subparagraph (P) of paragraph (3)

of Code Section 16-13-25; shall not include the completely defoliated mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination; and shall not include hemp or hemp products, as such terms are defined in Code Section 2-23-3, or medical cannabis or products, as such terms are defined in Code Sections 16-12-190 and 16-12-200, respectively, when in the possession or control of a person authorized to possess and control such medical cannabis or products under the provisions of Article 8 or Article 9 of Chapter 12 of this title. Such term shall not include products approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act."

### SECTION 3-6.

Said article is further amended in Code Section 16-13-25, relating to Schedule I, by revising subparagraph (P) of paragraph (3) as follows:

"(P) Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant material exhibiting the external morphological features of the plant of the genus Cannabis, but not including such substance when found in hemp or hemp products, as such terms are defined in Code Section 2-23-3, or in medical cannabis or products, as such terms are defined in Code Sections 16-12-190 and 16-12-200, respectively, when in the possession or control of a person authorized to possess or control such medical cannabis or products under the provisions of Article 8 or Article 9 of Chapter 12 of this title. Tetrahydrocannabinols do not include products approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act;"

### SECTION 3-7.

Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Public Health, is amended in Code Section 31-2A-18, relating to Low THC Oil Patient Registry, registration cards, reports, waiver forms, and annual review and recommendations, by revising paragraph (3) of subsection (a) as follows:

"(3) 'Condition' means:

(A) Cancer, ~~when such disease is diagnosed as end stage or the treatment produces related wasting illness or recalcitrant nausea and vomiting;~~

(B) Amyotrophic lateral sclerosis, ~~when such disease is diagnosed as severe or end stage;~~

(C) Seizure disorders related to a diagnosis of epilepsy or trauma related head injuries;

(D) Multiple sclerosis, ~~when such disease is diagnosed as severe or end stage;~~

(E) Crohn's disease;

(F) Mitochondrial disease;

(G) Parkinson's disease, ~~when such disease is diagnosed as severe or end stage;~~

(H) Sickle cell disease, ~~when such disease is diagnosed as severe or end stage;~~

(I) Tourette's syndrome, ~~when such syndrome is diagnosed as severe;~~

(J) Autism spectrum disorder, ~~when such disorder is diagnosed for a patient who is at least 18 years of age, or severe autism, when diagnosed for a patient who is less than 18 years of age;~~

(K) Epidermolysis bullosa;

(L) Alzheimer's disease, ~~when such disease is diagnosed as severe or end stage;~~

(M) Acquired immune deficiency syndrome, ~~when such syndrome is diagnosed as severe or end stage;~~

(N) Peripheral neuropathy, ~~when such symptoms are diagnosed as severe or end stage;~~

(O) Post-traumatic stress disorder, ~~resulting from direct exposure to or the witnessing of a trauma for a patient who is at least 18 years of age; or~~

340 (P) Intractable pain; or

341 (Q) Lupus."

342 **PART IV**

343 **SECTION 4-1.**

344 All laws and parts of laws in conflict with this Act are repealed.