

House Bill 764

By: Representatives Clark of the 98th, Peake of the 141st, Trammell of the 132nd, Gravley of the 67th, Meadows of the 5th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to regulation of low THC oil, so as to provide for certain circumstances for the
3 lawful possession or control of certain quantities of low THC oil and marijuana; to amend
4 Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to the Department
5 of Public Health, so as to add post traumatic stress disorder to the conditions authorized for
6 the use of low THC oil; to provide for licensing for cultivation of cannabis for the purpose
7 of producing, processing, and dispensing low THC oil in this state; to provide for criteria for
8 certain cultivation and production licenses; to provide for state postsecondary educational
9 institutions to have the option to bid on production facility licenses; to provide for a report;
10 to provide for rules and regulations and license fee; to provide for a short title; to provide for
11 related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 This Act shall be known and may be cited as the "Have You Forgotten Act?"

15 style="text-align:center">**SECTION 2.**

16 Article 8 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
17 regulation of low THC oil, is amended in Code Section 16-12-191, relating to possession,
18 manufacture, distribution, or sale of low THC oil and penalties, by revising subsection (c)
19 and by adding new subsections to read as follows:

20 "(b.1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
21 person to possess or have under his or her control any quantity of low THC oil if such
22 person is involved in a business licensed to dispense, extract, process, produce, or transport
23 low THC oil pursuant to Code Section 31-2A-18 as:

24 (1) A licensee employee;

25 (2) A licensee agent;

26 (3) A licensee board member or director; or
 27 (4) A licensee subcontractor, including but not limited to a laboratory, a transportation
 28 entity, a construction contractor, or any other supplier of goods or services to any licensed
 29 dispensary or licensed production facility, which shall include any such production
 30 facility licensee affiliated with a postsecondary educational institution within this state
 31 or an independent production facility licensee.

32 (c) Notwithstanding any provision of Chapter 13 of this title, any person having possession
 33 of or under his or her control more than 20 fluid ounces of low THC oil but less than 160
 34 fluid ounces of low THC oil or who manufactures, distributes, dispenses, sells, or possesses
 35 with the intent to distribute low THC oil without complying with subsection (b.1) of this
 36 Code section shall be guilty of a felony, and upon conviction thereof, shall be punished by
 37 imprisonment for not less than one nor more than ten years, a fine not to
 38 exceed \$50,000.00, or both."

39 "(e.1) Subsection (d) of this Code section shall not apply to any person involved in a
 40 business licensed to dispense, extract, process, produce, or transport low THC oil pursuant
 41 to Code Section 31-2A-18 if such person is acting in his or her capacity as a licensee
 42 employee, agent, board member, director, or subcontractor, including but not limited to a
 43 laboratory, a transportation entity, a construction contractor, or any other supplier of goods
 44 or services to any licensed dispensary or licensed production facility, which shall include
 45 any such production facility licensee affiliated with a postsecondary educational institution
 46 within this state or an independent production facility licensed by the Department of Public
 47 Health pursuant to Code Section 31-2A-18, provided that such dispensing, extracting,
 48 processing, production, or transportation is solely for the purposes set forth in Code
 49 Section 31-2A-18.

50 (e.2) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
 51 person to sell, manufacture, transport, grow, or have possession of a quantity of marijuana
 52 if such person is acting in his or her capacity in a business licensed with the Department
 53 of Public Health to sell, manufacture, transport, grow, or otherwise have possession of a
 54 quantity of marijuana pursuant to Code Section 31-2A-18 and if such sale, manufacture,
 55 transportation, growth, or possession of marijuana is solely for the purposes set forth in
 56 Code Section 31-2A-18."

57 **SECTION 3.**

58 Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to the Department
 59 of Public Health, is amended in Code Section 31-2A-18, relating to the establishment of the
 60 Low THC Oil Patient Registry, definitions, purpose, registration cards, semiannual reports,

61 and waiver forms, by revising paragraph (3) of subsection (a) and by adding new subsections
62 to read as follows:

63 "(3) 'Condition' means:

- 64 (A) Cancer, when such disease is diagnosed as end stage or the treatment produces
- 65 related wasting illness or recalcitrant nausea and vomiting;
- 66 (B) Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end
- 67 stage;
- 68 (C) Seizure disorders related to a diagnosis of epilepsy or trauma related head injuries;
- 69 (D) Multiple sclerosis, when such disease is diagnosed as severe or end stage;
- 70 (E) Crohn's disease;
- 71 (F) Mitochondrial disease;
- 72 (G) Parkinson's disease, when such disease is diagnosed as severe or end stage;
- 73 (H) Sickle cell disease, when such disease is diagnosed as severe or end stage;
- 74 (I) Tourette's syndrome, when such syndrome is diagnosed as severe;
- 75 (J) Autism spectrum disorder, when such disorder is diagnosed for a patient who is at
- 76 least 18 years of age, or severe autism, when diagnosed for a patient who is less than 18
- 77 years of age;
- 78 (K) Epidermolysis bullosa;
- 79 (L) Alzheimer's disease, when such disease is diagnosed as severe or end stage;
- 80 (M) Acquired immune deficiency syndrome, when such syndrome is diagnosed as
- 81 severe or end stage; ~~or~~
- 82 (N) Peripheral neuropathy, when such symptoms are diagnosed as severe or end stage;
- 83 or
- 84 (O) Post traumatic stress disorder."

85 "(h)(1) Registered individuals and registered caretakers shall be dispensed low THC oil
86 pursuant to this Code section from a licensed dispensary in good standing located in this
87 state. Such licensed dispensary shall review the department registry for verification of
88 registration of individuals and caregivers prior to dispensing low THC oil to such
89 individuals and caregivers.

90 (2) The department shall adopt reasonable and necessary rules and regulations relating
91 to the dispensing of low THC oil. Such rules and regulations shall include but not be
92 limited to:

- 93 (A) Standards, procedures, and protocols for the dispensing and tracking of low THC
- 94 oil;
- 95 (B) Procedures and protocols to provide that low THC oil shall not be dispensed from,
- 96 produced from, obtained from, sold to, or transferred to a location outside of this state;

- 97 (C) Standards, procedures, and protocols to ensure that all low THC oil dispensed is
 98 consistently pharmaceutical grade;
- 99 (D) Standards and procedures for the revocation, suspension, and nonrenewal of
 100 licenses;
- 101 (E) Other licensing, renewal, and operational standards;
- 102 (F) Standards and procedures for testing low THC oil for levels of
 103 tetrahydrocannabinol or other testing parameters;
- 104 (G) Health, safety, and security requirements for dispensers of low THC oil;
- 105 (H) Licensure of dispensers of low THC oil; and
- 106 (I) Financial requirements for applicants of a dispensing license.
- 107 (3) The department shall develop an annual, nontransferable license for a business to
 108 dispense low THC oil and shall limit the number of such licenses granted in this state to
 109 no more than ten licensees. The department's rules and regulations shall include the
 110 geographical locations of dispensaries in this state.
- 111 (i)(1) The department shall develop rules and regulations regarding facilities authorized
 112 and licensed by the department to cultivate cannabis and extract, process, and produce
 113 low THC oil. Such rules and regulations shall include but not be limited to the
 114 procedures for application, qualifications, eligibility, background checks, and standards
 115 for suitability for a license and penalties for violations of such rules and regulations. Such
 116 rules and regulations shall also include the facility and all aspects of the cultivation of
 117 cannabis for the purposes of producing low THC oil, the extraction process, and the
 118 production of the completed product. The department shall set facility standards to
 119 mitigate the risk of bacterial contamination and ensure that the extraction and refining
 120 process produces a product that is both food safe and pharmaceutical grade.
- 121 (2) The department shall develop an annual, nontransferable specialty license for the
 122 production of low THC oil and shall limit the number of such licenses granted in this
 123 state to no more than two licensees. Postsecondary educational institutions within this
 124 state shall have the right of first refusal to be licensed as a production facility, either
 125 separately or jointly.
- 126 (3)(A) If no postsecondary educational institutions within this state exercise the right
 127 of first refusal provided for in paragraph (2) of this subsection, the department shall
 128 grant the licenses pursuant to a sealed bid or a competitive sealed bid proposal. Such
 129 contract for the license shall be subject to the state purchasing provisions under
 130 Article 3 of Chapter 5 of Title 50 and shall not be subject to any exceptions or other
 131 variances.
- 132 (B) Such contract for the license shall be subject to the following conditions:
- 133 (i) Any such contract for a license awarded shall not exceed five years; and

134 (ii) Any such contract, memorandum of understanding, or cooperative endeavor
135 agreement entered into shall be a public record subject to disclosure under Article 4
136 of Chapter 18 of Title 50, relating to inspection of public records.

137 (C) No person licensed pursuant to this paragraph shall subcontract for services for the
138 cultivation of cannabis or processing of low THC oil in any way if the subcontractor,
139 or any of the service providers in the chain of subcontractors, is owned wholly or in part
140 by any state employee or member of a state employee's immediate family, including but
141 not limited to any legislator, state-wide public official, university or community or
142 technical college employee, department employee, or employee at a learning institution.

143 (D) Any bid for the license awarded pursuant to this paragraph shall include proof of
144 the financial capability of the bidder, including but not limited to a net worth of not less
145 than \$1 million.

146 (E) No person licensed pursuant to this paragraph shall give or receive anything of
147 value in connection with any contract, memorandum of understanding, or cooperative
148 endeavor agreement executed pursuant to this paragraph except the value that is
149 expressed in the contract, memorandum of understanding, or cooperative endeavor
150 agreement.

151 (4) The department shall collect the following information from each licensee pursuant
152 to this subsection:

153 (A) Gross amounts of cannabis produced by the licensee during each calendar year;

154 (B) Production costs, including but not limited to seed, fertilizer, labor, advisory
155 services, construction, and irrigation;

156 (C) Items or services for which the licensee subcontracted and the cost of each
157 subcontractor directly or indirectly working for the licensee;

158 (D) Low THC oil volume produced from the cannabis grown pursuant to this
159 subsection;

160 (E) The amounts paid each year to the licensee related to the licensee's production of
161 low THC oil pursuant to this subsection; and

162 (F) The quantity of low THC oil distributed to each licensed dispensary during each
163 calendar year.

164 (5) The department shall annually provide the information collected pursuant to
165 paragraph (4) of this subsection for the previous calendar year in a written report to the
166 General Assembly no later than December 31. The department shall also make a copy
167 of the report required by this paragraph available to the public on its website.

168 (j) In addition to all other requirements under this Code section, the department shall
169 establish and collect a semiannual license fee of \$25,000.00.

170 (k) Nothing in this Code section shall be construed to prohibit the department from
171 adopting emergency rules as otherwise provided for under Chapter 13 of Title 50, the
172 'Georgia Administrative Procedure Act.'"

173

SECTION 4.

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