

2019 Regular Session

HOUSE BILL NO. 568

BY REPRESENTATIVE DUSTIN MILLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DRUGS/CONTROLLED: Provides that the regulation of therapeutic cannabis be placed under the authority of the Louisiana Department of Health

1 AN ACT

2 To amend and reenact R.S. 40:1046 and to repeal Sections 2 and 4 of Act No. 96 of the 2016  
3 Regular Session of the Louisiana Legislature, Sections 2 and 4 of Act No. 496 of the  
4 2018 Regular Session of the Louisiana Legislature, Section 2 of Act No. 708 of the  
5 2018 Regular Session of the Louisiana Legislature, and Section 2 of Act No. 715 of  
6 the 2018 Regular Session of the Louisiana Legislature, relative to the regulation of  
7 therapeutic cannabis; to provide that the regulation of therapeutic cannabis be placed  
8 under the authority of the Louisiana Department of Health; to provide that the term  
9 be properly referred to as therapeutic cannabis; to provide for effective dates; and to  
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:1046 is hereby amended and reenacted to read as follows:

13 PART X-E. THERAPEUTIC USE OF ~~MARIJUANA~~ CANNABIS

14 §1046. Recommendation of ~~marijuana~~ cannabis for therapeutic use; rules and  
15 regulations; Louisiana Board of Pharmacy and the adoption of rules and  
16 regulations relating to the dispensing of recommended ~~marijuana~~ cannabis  
17 for therapeutic use; the Louisiana Department of Agriculture and Forestry of  
18 Health and the licensure of a production facility

19 A.(1) Notwithstanding any other provision of this Part, a physician licensed  
20 by and in good standing with the Louisiana State Board of Medical Examiners to

1 practice medicine in this state and who is domiciled in this state may recommend,  
2 in any form as permitted by the rules and regulations of the Louisiana Board of  
3 Pharmacy except for inhalation, and raw or crude ~~marijuana~~ cannabis,  
4 tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for  
5 therapeutic use by patients clinically diagnosed as suffering from a debilitating  
6 medical condition.

7 (2)(a) For purposes of this Subsection, "debilitating medical condition"  
8 means any of the following:

9 (i) Cancer.

10 (ii) Glaucoma.

11 (iii) Parkinson's disease.

12 (iv) Positive status for human immunodeficiency virus.

13 (v) Acquired immune deficiency syndrome.

14 (vi) Cachexia or wasting syndrome.

15 (vii) Seizure disorders.

16 (viii) Epilepsy.

17 (ix) Spasticity.

18 (x) Severe muscle spasms.

19 (xi) Intractable pain.

20 (xii) Crohn's disease.

21 (xiii) Muscular dystrophy.

22 (xiv) Multiple sclerosis.

23 (xv) Post traumatic stress disorder.

24 (xvi) Any of the following conditions associated with autism spectrum  
25 disorder:

26 (aa) Repetitive or self-stimulatory behavior of such severity that the physical  
27 health of the person with autism is jeopardized.

28 (bb) Avoidance of others or inability to communicate of such severity that  
29 the physical health of the person with autism is jeopardized.

1 (cc) Self-injuring behavior.

2 (dd) Physically aggressive or destructive behavior.

3 (b) No physician shall recommend ~~medical marijuana~~ therapeutic cannabis  
4 for treatment of any condition associated with autism spectrum disorder for a patient  
5 who is under the age of eighteen unless the physician complies with the provisions  
6 of this Section and consults with a pediatric subspecialist.

7 (c) Intractable pain means a pain state in which the cause of the pain cannot  
8 be removed or otherwise treated with the consent of the patient and which, in the  
9 generally accepted course of medical practice, no relief or cure of the cause of the  
10 pain is possible, or none has been found after reasonable efforts. It is pain so chronic  
11 and severe as to otherwise warrant an opiate prescription.

12 (d) If the United States Food and Drug Administration approves the use of  
13 ~~medical marijuana~~ therapeutic cannabis in the same form provided for in this Part for  
14 any debilitating medical condition specifically identified in this Paragraph, that  
15 medical condition shall no longer be covered by the provisions of this Part.

16 (e) If the United States Food and Drug Administration approves the use of  
17 ~~medical marijuana~~ therapeutic cannabis in a form or derivative different than  
18 provided for in this Part for any debilitating medical condition specifically identified  
19 in this Paragraph, the disease state shall remain covered by the provisions of this  
20 Part. The patient shall first be treated by the approved form or derivative of ~~medical~~  
21 ~~marijuana~~ therapeutic cannabis through utilization of step therapy or fail first  
22 protocols. If, after use of the United States Food and Drug Administration approved  
23 form or derivative of ~~medical marijuana~~ therapeutic cannabis, the physician  
24 determines that the preferred treatment required under step therapy or fail first  
25 protocol has been ineffective in the treatment of the patient's debilitating medical  
26 condition, he may recommend the form of ~~medical marijuana~~ therapeutic cannabis  
27 provided for in this Part for use by the patient as medically necessary.

28 (3) For purposes of this Part, "recommend" or "recommended" means an  
29 order from a physician domiciled in Louisiana and licensed and in good standing

1 with the Louisiana State Board of Medical Examiners and authorized by the board  
2 to recommend ~~medical marijuana~~ therapeutic cannabis that is patient-specific and  
3 disease-specific in accordance with Paragraph (2) of this Subsection, and is  
4 communicated by any means allowed by the Louisiana Board of Pharmacy to a  
5 Louisiana-licensed pharmacist in a Louisiana-permitted dispensing pharmacy as  
6 described in Subsection G of this Section, and is preserved on file as required by  
7 Louisiana law or federal law regarding ~~medical marijuana~~ therapeutic cannabis.

8 (4) Physicians shall recommend use of ~~medical marijuana~~ therapeutic  
9 cannabis for treatment of debilitating medical conditions in accordance with rules  
10 and regulations promulgated by the Louisiana State Board of Medical Examiners.

11 (5) The Louisiana State Board of Medical Examiners shall submit to the  
12 Senate and House committees on health and welfare on an annual basis not less than  
13 sixty days prior to the beginning of the regular session of the legislature a report as  
14 to any additional diseases or medical conditions that should be added to the list of  
15 eligible diseases and conditions for recommendation.

16 B. The Louisiana State Board of Medical Examiners shall promulgate rules  
17 and regulations authorizing physicians licensed to practice in this state to recommend  
18 ~~marijuana~~ cannabis for therapeutic use by patients as described in Subsection A of  
19 this Section. Any rules published by the Louisiana State Board of Medical  
20 Examiners on or before January 1, 2016, that describe the physician's authority to  
21 prescribe should be repromulgated to indicate that he is "recommending" use of  
22 therapeutic ~~marijuana~~ cannabis.

23 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the  
24 dispensing of recommended ~~marijuana~~ cannabis for therapeutic use. Any rules  
25 published by the Louisiana Board of Pharmacy on or before January 1, 2016, that  
26 describe the pharmacist as dispensing ~~medical marijuana~~ therapeutic cannabis based  
27 on a physician's prescription should be repromulgated to indicate that the physician  
28 is "recommending" use of therapeutic ~~marijuana~~ cannabis.

29 (2) The rules shall include but not be limited to:

1 (a) Standards, procedures, and protocols for the effective use of  
2 recommended ~~marijuana~~ cannabis for therapeutic use as authorized by state law and  
3 related rules and regulations.

4 (b) Standards, procedures, and protocols for the dispensing and tracking of  
5 recommended therapeutic ~~marijuana~~ cannabis in Louisiana.

6 (c) Procedures and protocols to provide that no recommended therapeutic  
7 ~~marijuana~~ cannabis may be dispensed from, produced from, obtained from, sold to,  
8 or transferred to a location outside of this state.

9 (d) The establishment of standards, procedures, and protocols for  
10 determining the amount of usable recommended therapeutic ~~marijuana~~ cannabis that  
11 is necessary to constitute an adequate supply to ensure uninterrupted availability for  
12 a period of one month, including amounts for topical treatments.

13 (e) The establishment of standards, procedures, and protocols to ensure that  
14 all recommended therapeutic ~~marijuana~~ cannabis dispensed is consistently  
15 pharmaceutical grade.

16 (f) The establishment of standards and procedures for the revocation,  
17 suspension, and nonrenewal of licenses.

18 (g) The establishment of other licensing, renewal, and operational standards  
19 which are deemed necessary by the Louisiana Board of Pharmacy.

20 (h) The establishment of standards and procedures for testing recommended  
21 therapeutic ~~marijuana~~ cannabis samples for levels of tetrahydrocannabinol (THC) or  
22 other testing parameters deemed appropriate by the Louisiana Board of Pharmacy.

23 (i) The establishment of health, safety, and security requirements for  
24 dispensers of recommended therapeutic ~~marijuana~~ cannabis.

25 (j) Licensure of dispensers of recommended therapeutic ~~marijuana~~ cannabis.

26 (k) The establishment of financial requirements for applicants of therapeutic  
27 ~~marijuana~~ cannabis dispensing pharmacy license under which each applicant  
28 demonstrates the following:

1 (i) The financial capacity to operate a therapeutic ~~marijuana~~ cannabis  
2 dispensing pharmacy.

3 (ii) The ability to maintain an escrow account in a financial institution  
4 headquartered in Louisiana in an amount of two million dollars, if required by the  
5 Louisiana Board of Pharmacy.

6 D. Nothing in this Section shall be construed to prohibit the Louisiana State  
7 Board of Medical Examiners or the Louisiana Board of Pharmacy from adopting  
8 emergency rules as otherwise provided for in the Administrative Procedure Act.

9 E. ~~Marijuana~~ Cannabis, tetrahydrocannabinols, or a chemical derivative of  
10 tetrahydrocannabinols recommended pursuant to this Section shall be dispensed in  
11 person from a licensed pharmacy in good standing located in Louisiana.

12 F. A person who recommends and person who dispenses ~~marijuana~~ cannabis,  
13 tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant  
14 to this Section shall review the patient's information in the database of the  
15 prescription monitoring program established in R.S. 40:1001 et seq. prior to the  
16 recommending and dispensing thereof.

17 G. The Louisiana Board of Pharmacy shall develop an annual,  
18 nontransferable specialty license for a pharmacy to dispense recommended  
19 ~~marijuana~~ cannabis for therapeutic use and shall limit the number of such licenses  
20 granted in the state to no more than ten licensees. The Louisiana Board of Pharmacy  
21 shall develop rules and regulations regarding the geographical locations of  
22 dispensing pharmacies in Louisiana.

23 H.(1)(a) The Louisiana Department of ~~Agriculture and Forestry~~ Health shall  
24 develop the rules and regulations regarding the extraction, processing, and  
25 production of recommended therapeutic ~~marijuana~~ cannabis and the facility  
26 producing therapeutic ~~marijuana~~ cannabis. The rules and regulations shall include  
27 but not be limited to both of the following minimum standards:

28 (i) In order to mitigate the risk of bacterial contamination, food-grade  
29 ethanol extraction shall be used.

1 (ii) The extraction and refining process shall produce a product that is food  
2 safe and capable of producing pharmaceutical-grade products.

3 (b) The rules and regulations shall also include but not be limited to the  
4 procedures for application, qualifications, eligibility, background checks, and  
5 standards for suitability for a license and penalties for violations of the rules and  
6 regulations.

7 (2)(a) The Louisiana Department of ~~Agriculture and Forestry~~ Health shall  
8 develop an annual, nontransferable specialty license for the production of  
9 recommended ~~marijuana~~ cannabis for therapeutic use. Other than the licenses  
10 granted pursuant to Subparagraph (b) of this Paragraph, the Louisiana Department  
11 of ~~Agriculture and Forestry~~ Health shall limit the number of such licenses granted  
12 in the state to no more than one licensee. The Louisiana State University  
13 Agricultural Center and the Southern University Agricultural Center shall have the  
14 right of first refusal to be licensed as the production facility, either separately or  
15 jointly. If neither of the centers exercise this option, the license shall be awarded  
16 pursuant to the requirements provided for in Paragraphs (3) through (5) of this  
17 Subsection.

18 (b) Prior to September 1, 2016, the Louisiana State University Agricultural  
19 Center and the Southern University Agricultural Center shall each provide written  
20 notice to the ~~commissioner~~ secretary of ~~agriculture and forestry~~ the Louisiana  
21 Department of Health of their intent to be licensed as a production facility, either  
22 separately or jointly.

23 (c) The Louisiana State University Agricultural Center or the Southern  
24 University Agricultural Center may conduct research on ~~marijuana~~ cannabis for  
25 therapeutic use if the center is licensed as a production facility pursuant to this  
26 Section. Effective January 1, 2020, and annually thereafter, the Louisiana State  
27 University Agricultural Center and the Southern University Agricultural Center shall  
28 submit a report to the Senate and House committees on health and welfare, to include  
29 data and outcomes of the research conducted pursuant to this Paragraph.

1           (3) The license shall be limited to one geographic location as provided for  
2           in rule by the Louisiana Department of ~~Agriculture and Forestry~~ Health. The  
3           geographic location shall be a public record subject to disclosure under the Public  
4           Records Law, R.S. 44:1 et seq. The licensee shall permit inspection of the  
5           production facility by any elected member of the Louisiana Legislature upon request  
6           after receipt of reasonable notice.

7           (4)(a) The Louisiana Department of ~~Agriculture and Forestry~~ Health shall  
8           grant the license pursuant to a contract awarded through a competitive sealed bid or  
9           a competitive sealed proposal as provided for in R.S. 39:1594 and 1595. The  
10          contract for the license shall be subject to the Louisiana Procurement Code and shall  
11          not be subject to any exceptions to or other variances from the Louisiana  
12          Procurement Code. The contract shall not be awarded under the sole source  
13          procurement provisions provided for in R.S. 39:1597.

14          (b) Any contract for the license awarded pursuant to this Subsection shall not  
15          exceed five years.

16          (c) Any contract, memorandum of understanding, or cooperative endeavor  
17          agreement entered into pursuant to this Section shall be a public record subject to  
18          disclosure under the Public Records Law, R.S. 44:1 et seq.

19          (d) Any contract, memorandum of understanding, or cooperative endeavor  
20          agreement entered into for services for the cultivation or processing in any way of  
21          ~~marijuana~~ cannabis pursuant to this Section shall be a public record subject to  
22          disclosure under the Public Records Law, R.S. 44:1 et seq.

23          (e) No person licensed pursuant to this Subsection shall subcontract for  
24          services for the cultivation or processing in any way of ~~marijuana~~ cannabis if the  
25          subcontractor, or any of the service providers in the chain of subcontractors, is  
26          owned wholly or in part by any state employee or member of a state employee's  
27          immediate family, including but not limited to any legislator, statewide public  
28          official, university or community or technical college employee, Louisiana State  
29          University Agricultural Center employee, or Southern University Agricultural Center



1 employee. For the purposes of this Paragraph, "immediate family" has the same  
2 meaning as provided in R.S. 42:1102.

3 (f) Any bid for the license awarded pursuant to this Subsection shall include  
4 proof of the financial capability of the bidder to operate a therapeutic ~~marijuana~~  
5 cannabis production facility including but not limited to a net worth of not less than  
6 one million dollars.

7 (5) No person licensed pursuant to this Subsection shall give or receive  
8 anything of value in connection with any contract, memorandum of understanding,  
9 or cooperative endeavor agreement executed pursuant to this Subsection except the  
10 value that is expressed in the contract, memorandum of understanding, or  
11 cooperative endeavor agreement.

12 (6)(a) The Louisiana Department of ~~Agriculture and Forestry~~ Health shall  
13 collect the following information from each licensee:

14 (i) The amount of gross ~~marijuana~~ cannabis produced by the licensee during  
15 each calendar year.

16 (ii) The details of all production costs including but not limited to seed,  
17 fertilizer, labor, advisory services, construction, and irrigation.

18 (iii) The details of any items or services for which the licensee subcontracted  
19 and the costs of each subcontractor directly or indirectly working for the contractor.

20 (iv) The amount of therapeutic chemicals produced resulting from the  
21 ~~marijuana~~ cannabis grown pursuant to this Section.

22 (v) The amounts paid each year to the licensee related to the licensee's  
23 production of therapeutic ~~marijuana~~ cannabis pursuant to this Section.

24 (vi) The amount of therapeutic ~~marijuana~~ cannabis distributed to each  
25 pharmacy licensed to dispense therapeutic ~~marijuana~~ cannabis in this state during  
26 each calendar year.

27 (b) The Louisiana Department of ~~Agriculture and Forestry~~ Health shall  
28 provide the information collected pursuant to this Paragraph for the previous  
29 calendar year in the form of a written report to the Louisiana Legislature no later

1 than February first of each year. The department shall also make a copy of the report  
2 required by this Subparagraph available to the public on the Internet.

3 (7) No company that has made a contribution to a candidate in a Louisiana  
4 election governed by the provisions of the Campaign Finance Disclosure Act within  
5 the five years prior to bidding for the license, or is controlled wholly or in part by a  
6 person who made such a contribution within the five years prior to the company  
7 bidding for the license, may be eligible for the license.

8 (8)(a) The department shall perform the following:

9 (i) Establish and collect an annual license fee of one hundred thousand  
10 dollars and an annual permit fee of one hundred dollars for administrative and  
11 inspection costs.

12 (ii) Collect a nonrefundable application fee of ten thousand dollars.

13 ~~(iii) Receive an amount not to exceed seven percent of the gross sales.~~

14 (b) All fees collected by the department shall be used to fund the expenses  
15 relating to the regulation and control of prescribed ~~marijuana~~ cannabis for  
16 therapeutic use.

17 I. The levels of THC in any ~~marijuana~~ cannabis produced pursuant to this  
18 Section shall be reduced to the lowest acceptable therapeutic levels available through  
19 scientifically accepted methods.

20 J. Notwithstanding any other provision of law to the contrary, employers and  
21 their worker's compensation insurers shall not be obliged or ordered to pay for  
22 ~~medical marijuana~~ therapeutic cannabis in claims arising under Title 23 of the  
23 Louisiana Revised Statutes of 1950, the Louisiana Workers' Compensation Law.

24 K. The provisions of this Section shall terminate on January 1, 2025.

25 Section 2. R.S. 40:1046 is hereby enacted to read as follows:

26 PART X-E. THERAPEUTIC USE OF CANNABIS

27 §1046. Prescription of cannabis for therapeutic use; rules and regulations; Louisiana  
28 Board of Pharmacy and the adoption of rules and regulations relating to the

1           ~~dispensing of prescribed cannabis for therapeutic use; the Louisiana~~  
2           ~~Department of Health and the licensure of a production facility~~

3           A.(1) Notwithstanding any other provision of this Part, a physician licensed  
4           by and in good standing with the Louisiana State Board of Medical Examiners to  
5           practice medicine in this state and who is domiciled in this state may prescribe, in  
6           any form as permitted by the rules and regulations of the Louisiana Board of  
7           Pharmacy except for inhalation, and raw or crude cannabis, tetrahydrocannabinols,  
8           or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients  
9           clinically diagnosed as suffering from a debilitating medical condition.

10           (2)(a) For purposes of this Subsection, "debilitating medical condition"  
11           means any of the following:

12           (i) Cancer.

13           (ii) Glaucoma.

14           (iii) Positive status for human immunodeficiency virus.

15           (iv) Acquired immune deficiency syndrome.

16           (v) Cachexia or wasting syndrome.

17           (vi) Seizure disorders.

18           (vii) Epilepsy.

19           (viii) Spasticity.

20           (ix) Severe muscle spasms.

21           (x) Intractable pain.

22           (xi) Crohn's disease.

23           (xii) Muscular dystrophy.

24           (xiii) Multiple sclerosis.

25           (xiv) Post-traumatic stress disorder.

26           (xv) Any of the following conditions associated with autism spectrum  
27           disorder:

28           (aa) Repetitive or self-stimulatory behavior of such severity that the physical  
29           health of the person with autism is jeopardized.

1           (bb) Avoidance of others or inability to communicate of such severity that  
2           the physical health of the person with autism is jeopardized.

3           (cc) Self-injuring behavior.

4           (dd) Physically aggressive or destructive behavior.

5           (b) No physician shall prescribe therapeutic cannabis for treatment of any  
6           condition associated with autism spectrum disorder for a patient who is under the age  
7           of eighteen unless the physician complies with the provisions of this Section and  
8           consults with a pediatric subspecialist.

9           (c) Intractable pain means a pain state in which the cause of the pain cannot  
10          be removed or otherwise treated with the consent of the patient and which, in the  
11          generally accepted course of medical practice, no relief or cure of the cause of the  
12          pain is possible, or none has been found after reasonable efforts. It is pain so chronic  
13          and severe as to otherwise warrant an opiate prescription.

14          (d) If the United States Food and Drug Administration approves the use of  
15          therapeutic cannabis in the same form provided for in this Part for any debilitating  
16          medical condition specifically identified in this Paragraph, that medical condition  
17          shall no longer be covered by the provisions of this Part.

18          (e) If the United States Food and Drug Administration approves the use of  
19          therapeutic cannabis in a form or derivative different than provided for in this Part  
20          for any debilitating medical condition specifically identified in this Paragraph, the  
21          disease state shall remain covered by the provisions of this Part. The patient shall  
22          first be treated by the approved form or derivative of therapeutic cannabis through  
23          utilization of step therapy or fail first protocols. If, after use of the United States  
24          Food and Drug Administration approved form or derivative of therapeutic cannabis,  
25          the physician determines that the preferred treatment required under step therapy or  
26          fail first protocol has been ineffective in the treatment of the patient's debilitating  
27          medical condition, he may prescribe the form of therapeutic cannabis provided for  
28          in this Part for use by the patient as medically necessary.

1           (3) For purposes of this Part, "prescribe" or "prescription" means an order  
2           from a physician domiciled in Louisiana and licensed and in good standing with the  
3           Louisiana State Board of Medical Examiners and authorized by the board to  
4           prescribe therapeutic cannabis that is patient-specific and disease-specific in  
5           accordance with Paragraph (2) of this Subsection, and is communicated by any  
6           means allowed by the Louisiana Board of Pharmacy to a Louisiana-licensed  
7           pharmacist in a Louisiana-permitted dispensing pharmacy as described in Subsection  
8           G of this Section, and is preserved on file as required by Louisiana law or federal law  
9           regarding therapeutic cannabis.

10           (4) Physicians shall prescribe the use of therapeutic cannabis for treatment  
11           of debilitating medical conditions in accordance with rules and regulations  
12           promulgated by the Louisiana State Board of Medical Examiners.

13           (5) The Louisiana State Board of Medical Examiners shall submit to the  
14           Senate and House committees on health and welfare on an annual basis not less than  
15           sixty days prior to the beginning of the regular session of the legislature a report as  
16           to any additional diseases or medical conditions that should be added to the list of  
17           eligible diseases and conditions for recommendation.

18           B. The Louisiana State Board of Medical Examiners shall promulgate rules  
19           and regulations authorizing physicians licensed to practice in this state to prescribe  
20           cannabis for therapeutic use by patients as described in Subsection A of this Section.

21           C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the  
22           dispensing of prescribed cannabis for therapeutic use.

23           (2) The rules shall include but not be limited to:

24           (a) Standards, procedures, and protocols for the effective use of prescribed  
25           cannabis for therapeutic use as authorized by state law and related rules and  
26           regulations.

27           (b) Standards, procedures, and protocols for the dispensing and tracking of  
28           prescribed therapeutic cannabis in Louisiana.

1           (c) Procedures and protocols to provide that no prescribed therapeutic  
2           cannabis may be dispensed from, produced from, obtained from, sold to, or  
3           transferred to a location outside of this state.

4           (d) The establishment of standards, procedures, and protocols for  
5           determining the amount of usable prescribed therapeutic cannabis that is necessary  
6           to constitute an adequate supply to ensure uninterrupted availability for a period of  
7           one month, including amounts for topical treatments.

8           (e) The establishment of standards, procedures, and protocols to ensure that  
9           all prescribed therapeutic cannabis dispensed is consistently pharmaceutical grade.

10          (f) The establishment of standards and procedures for the revocation,  
11          suspension, and nonrenewal of licenses.

12          (g) The establishment of other licensing, renewal, and operational standards  
13          which are deemed necessary by the Louisiana Board of Pharmacy.

14          (h) The establishment of standards and procedures for testing prescribed  
15          therapeutic cannabis samples for levels of tetrahydrocannabinol (THC) or other  
16          testing parameters deemed appropriate by the Louisiana Board of Pharmacy.

17          (i) The establishment of health, safety, and security requirements for  
18          dispensers of prescribed therapeutic cannabis.

19          (j) Licensure of dispensers of prescribed therapeutic cannabis.

20          (k) The establishment of financial requirements for applicants of therapeutic  
21          cannabis dispensing pharmacy license under which each applicant demonstrates the  
22          following:

23                (i) The financial capacity to operate a therapeutic cannabis dispensing  
24                pharmacy.

25                (ii) The ability to maintain an escrow account in a financial institution  
26                headquartered in Louisiana in an amount of two million dollars, if required by the  
27                Louisiana Board of Pharmacy.

1           D. Nothing in this Section shall be construed to prohibit the Louisiana State  
2           Board of Medical Examiners or the Louisiana Board of Pharmacy from adopting  
3           emergency rules as otherwise provided for in the Administrative Procedure Act.

4           E. Cannabis, tetrahydrocannabinols, or a chemical derivative of  
5           tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed in  
6           person from a licensed pharmacy in good standing located in Louisiana.

7           F. A prescriber and dispenser of cannabis, tetrahydrocannabinols, or a  
8           chemical derivative of tetrahydrocannabinols pursuant to this Section shall review  
9           the patient's information in the database of the prescription monitoring program  
10          established in R.S. 40:1001 et seq. prior to the prescribing and dispensing thereof.

11          G. The Louisiana Board of Pharmacy shall develop an annual,  
12          nontransferable specialty license for a pharmacy to dispense prescribed cannabis for  
13          therapeutic use and shall limit the number of such licenses granted in the state to no  
14          more than ten licensees. The Louisiana Board of Pharmacy shall develop rules and  
15          regulations regarding the geographical locations of dispensing pharmacies in  
16          Louisiana.

17          H.(1)(a) The Louisiana Department of Health shall develop the rules and  
18          regulations regarding the extraction, processing, and production of prescribed  
19          therapeutic cannabis and the facility producing therapeutic cannabis. The rules and  
20          regulations shall include but not be limited to both of the following minimum  
21          standards:

22                 (i) In order to mitigate the risk of bacterial contamination, food-grade  
23                 ethanol extraction shall be used.

24                 (ii) The extraction and refining process shall produce a product that is food  
25                 safe and capable of producing pharmaceutical-grade products.

26                 (b) The rules and regulations shall also include but not be limited to the  
27                 procedures for application, qualifications, eligibility, background checks, and  
28                 standards for suitability for a license and penalties for violations of the rules and  
29                 regulations.

1           (2)(a) The Louisiana Department of Health shall develop an annual,  
2           nontransferable specialty license for the production of prescribed cannabis for  
3           therapeutic use. Other than the licenses granted pursuant to Subparagraph (b) of this  
4           Paragraph, the Louisiana Department of Health shall limit the number of such  
5           licenses granted in the state to no more than one licensee. The Louisiana State  
6           University Agricultural Center and the Southern University Agricultural Center shall  
7           have the right of first refusal to be licensed as the production facility, either  
8           separately or jointly. If neither of the centers exercise this option, the license shall  
9           be awarded pursuant to the requirements provided for in Paragraphs (3) through (5)  
10          of this Subsection.

11           (b) Prior to September 1, 2016, the Louisiana State University Agricultural  
12          Center and the Southern University Agricultural Center shall each provide written  
13          notice to the secretary of the Louisiana Department of Health of their intent to be  
14          licensed as a production facility, either separately or jointly.

15           (c) The Louisiana State University Agricultural Center or the Southern  
16          University Agricultural Center may conduct research on cannabis for therapeutic use  
17          if the center is licensed as a production facility pursuant to this Section. Effective  
18          January 1, 2020, and annually thereafter, the Louisiana State University Agricultural  
19          Center and the Southern University Agricultural Center shall submit a report to the  
20          Senate and House committees on health and welfare, to include data and outcomes  
21          of the research conducted pursuant to this Paragraph.

22           (3) The license shall be limited to one geographic location as provided for  
23          in rule by the Louisiana Department of Health. The geographic location shall be a  
24          public record subject to disclosure under the Public Records Law, R.S. 44:1 et seq.  
25          The licensee shall permit inspection of the production facility by any elected member  
26          of the Louisiana Legislature upon request after receipt of reasonable notice.

27           (4)(a) The Louisiana Department of Health shall grant the license pursuant  
28          to a contract awarded through a competitive sealed bid or a competitive sealed  
29          proposal as provided for in R.S. 39:1594 and 1595. The contract for the license shall



1 be subject to the Louisiana Procurement Code and shall not be subject to any  
2 exceptions to or other variances from the Louisiana Procurement Code. The contract  
3 shall not be awarded under the sole source procurement provisions provided for in  
4 R.S. 39:1597.

5 (b) Any contract for the license awarded pursuant to this Subsection shall not  
6 exceed five years.

7 (c) Any contract, memorandum of understanding, or cooperative endeavor  
8 agreement entered into pursuant to this Section shall be a public record subject to  
9 disclosure under the Public Records Law, R.S. 44:1 et seq.

10 (d) Any contract, memorandum of understanding, or cooperative endeavor  
11 agreement entered into for services for the cultivation or processing in any way of  
12 cannabis pursuant to this Section shall be a public record subject to disclosure under  
13 the Public Records Law, R.S. 44:1 et seq.

14 (e) No person licensed pursuant to this Subsection shall subcontract for  
15 services for the cultivation or processing in any way of cannabis if the subcontractor,  
16 or any of the service providers in the chain of subcontractors, is owned wholly or in  
17 part by any state employee or member of a state employee's immediate family,  
18 including but not limited to any legislator, statewide public official, university or  
19 community or technical college employee, Louisiana State University Agricultural  
20 Center employee, or Southern University Agricultural Center employee. For the  
21 purposes of this Paragraph, "immediate family" has the same meaning as provided  
22 in R.S. 42:1102.

23 (f) Any bid for the license awarded pursuant to this Subsection shall include  
24 proof of the financial capability of the bidder to operate a therapeutic cannabis  
25 production facility including but not limited to a net worth of not less than one  
26 million dollars.

27 (5) No person licensed pursuant to this Subsection shall give or receive  
28 anything of value in connection with any contract, memorandum of understanding,  
29 or cooperative endeavor agreement executed pursuant to this Subsection except the

1 value that is expressed in the contract, memorandum of understanding, or  
2 cooperative endeavor agreement.

3 (6)(a) The Louisiana Department of Health shall collect the following  
4 information from each licensee:

5 (i) The amount of gross cannabis produced by the licensee during each  
6 calendar year.

7 (ii) The details of all production costs including but not limited to seed,  
8 fertilizer, labor, advisory services, construction, and irrigation.

9 (iii) The details of any items or services for which the licensee subcontracted  
10 and the costs of each subcontractor directly or indirectly working for the contractor.

11 (iv) The amount of therapeutic chemicals produced resulting from the  
12 cannabis grown pursuant to this Section.

13 (v) The amounts paid each year to the licensee related to the licensee's  
14 production of therapeutic cannabis pursuant to this Section.

15 (vi) The amount of therapeutic cannabis distributed to each pharmacy  
16 licensed to dispense therapeutic cannabis in this state during each calendar year.

17 (b) The Louisiana Department of Health shall provide the information  
18 collected pursuant to this Paragraph for the previous calendar year in the form of a  
19 written report to the Louisiana Legislature no later than February first of each year.  
20 The department shall also make a copy of the report required by this Subparagraph  
21 available to the public on the Internet.

22 (7) No company that has made a contribution to a candidate in a Louisiana  
23 election governed by the provisions of the Campaign Finance Disclosure Act within  
24 the five years prior to bidding for the license, or is controlled wholly or in part by a  
25 person who made such a contribution within the five years prior to the company  
26 bidding for the license, may be eligible for the license.

1                   (8)(a) The department shall perform the following:

2                   (i) Establish and collect an annual license fee of one hundred thousand  
3                   dollars and an annual permit fee of one hundred dollars for administrative and  
4                   inspection costs.

5                   (ii) Collect a nonrefundable application fee of ten thousand dollars.

6                   (b) All fees collected by the department shall be used to fund the expenses  
7                   relating to the regulation and control of prescribed cannabis for therapeutic use.

8                   I. The levels of THC in any cannabis produced pursuant to this Section shall  
9                   be reduced to the lowest acceptable therapeutic levels available through scientifically  
10                  accepted methods.

11                  J. Notwithstanding any other provision of law to the contrary, employers and  
12                  their worker's compensation insurers shall not be obliged or ordered to pay for  
13                  therapeutic cannabis in claims arising under Title 23 of the Louisiana Revised  
14                  Statutes of 1950, the Louisiana Workers' Compensation Law.

15                  K. The provisions of this Section shall terminate on January 1, 2025.

16                  Section 3. Sections 2 and 4 of Act No. 96 of the 2016 Regular Session of the  
17                  Louisiana Legislature, Sections 2 and 4 of Act No. 496 of the 2018 Regular Session of the  
18                  Louisiana Legislature, Section 2 of Act No. 708 of the 2018 Regular Session of the  
19                  Louisiana Legislature, and Section 2 of Act No. 715 of the 2018 Regular Session of the  
20                  Louisiana Legislature are hereby repealed in their entirety.

21                  Section 4. This Section and Section 1 of this Act shall become effective upon  
22                  signature by the governor or, if not signed by the governor, upon expiration of the time for  
23                  bills to become law without signature by the governor, as provided by Article III, Section  
24                  18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved  
25                  by the legislature, this Act shall become effective on the day following such approval.

26                  Section 5. This Section, Section 2, and Section 3 of this Act shall become effective  
27                  and become operative if and when the United States Drug Enforcement Administration  
28                  reclassifies marijuana from a Schedule I drug to a Schedule II drug under the authority of  
29                  the Controlled Substances Act, 21 U.S.C. §801 et seq., at which time the provisions of

- 1 Section 1 of this Act amending and reenacting R.S. 40:1046 shall become null and void and  
2 of no effect.
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## 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)]

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HB 568 Engrossed

2019 Regular Session

Dustin Miller

**Abstract:** Transfers oversight of therapeutic cannabis from the Louisiana Department of Agriculture and Forestry to the Louisiana Department of Health.

Present law provides that oversight of therapeutic cannabis shall be under the authority of the Louisiana Department of Agriculture and Forestry.

Proposed law transfers oversight authority to the Louisiana Department of Health.

Present law provides that the treatment be referred to as "medical marijuana".

Proposed law references the treatment as "therapeutic cannabis".

Present law provides that the department receive an amount of the gross sales not to exceed 7%.

Proposed law eliminates the cap on the amount the department may receive from gross sales.

(Amends R.S. 40:1046; and repeals Sections 2 and 4 of Act No. 96 of the 2016 R.S. of the Louisiana Legislature, Sections 2 and 4 of Act No. 496 of the 2018 R.S. of the Louisiana Legislature, Section 2 of Act No. 708 of the 2018 R.S. of the Louisiana Legislature, and Section 2 of Act No. 715 of the 2018 R.S. of the Louisiana Legislature)