

SENATE BILL NO. 143

BY SENATOR MILLS AND REPRESENTATIVES HONORE, ARNOLD, BADON, BOUIE, BURRELL, COX, EDWARDS, HUNTER, JAMES, TERRY LANDRY, LEBAS, MORENO, PIERRE, SMITH, PATRICK WILLIAMS AND WOODRUFF

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

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AN ACT

To amend and reenact R.S. 40:1046, relative to the therapeutic use of marijuana; to provide for the adoption of rules and regulations relating to the prescribing, dispensing, and producing of marijuana for therapeutic use; to provide for a deadline to adopt rules and regulations; to provide for a report to the legislature; to provide for the location of the place of dispensing; to provide for the use of the Prescription Monitoring Program; to provide for licensure of a production facility; to provide for an effective date; to provide for a termination date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§1046. Prescription of marijuana for therapeutic use; rules and regulations; ~~secretary of health and hospitals~~ **Louisiana Board of Pharmacy and the adoption of rules and regulations relating to the dispensing of prescribed marijuana for therapeutic use; the Department of Agriculture and Forestry and the licensure of a production facility**

A. Notwithstanding any other provision of this Part, a physician licensed to practice medicine in this state ~~and who is also registered to prescribe Schedule I substances with the Drug Enforcement Administration~~ may prescribe, **in any form as permitted by the rules and regulations of the Louisiana Board of Pharmacy except for inhalation, and raw or crude** marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia in accordance with rules and regulations promulgated by the ~~secretary of health and~~

1 ~~hospitals and in accordance with FDA and DEA administrative guidelines for~~
2 ~~procurement of the controlled substance from the National Institute on Drug Abuse~~
3 **Louisiana State Board of Medical Examiners. The Louisiana State Board of**
4 **Medical Examiners shall submit to the Senate and House committees on health**
5 **and welfare on an annual basis not less than sixty days prior to the beginning**
6 **of the regular session of the legislature a report as to any additional diseases or**
7 **medical conditions that should be added to the list of eligible diseases and**
8 **conditions for prescription.**

9 B. ~~The secretary of health and hospitals, by January 1, 1992~~ **Louisiana State**
10 **Board of Medical Examiners** shall promulgate rules and regulations; authorizing
11 physicians licensed to practice in this state to prescribe marijuana for therapeutic use
12 by patients as described in Subsection A of this Section **no later than January 1,**
13 **2016.**

14 **C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the**
15 **dispensing of prescribed marijuana for therapeutic use no later than December**
16 **1, 2016. The Louisiana Board of Pharmacy shall seek input from groups**
17 **including but not limited to the following:**

18 **(a) The Louisiana District Attorneys Association.**

19 **(b) Professional law enforcement associations, organizations, and**
20 **commissions.**

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

22 **(a) Standards, procedures, and protocols for the effective use of**
23 **prescribed marijuana for therapeutic use as authorized by state law and related**
24 **rules and regulations.**

25 **(b) Standards, procedures, and protocols for the dispensing and tracking**
26 **of prescribed therapeutic marijuana in Louisiana.**

27 **(c) Procedures and protocols to provide that no prescribed therapeutic**
28 **marijuana may be dispensed from, produced from, obtained from, sold to, or**
29 **transferred to a location outside of this state.**

30 **(d) The establishment of standards, procedures, and protocols for**

1 determining the amount of usable prescribed therapeutic marijuana that is
2 necessary to constitute an adequate supply to ensure uninterrupted availability
3 for a period of one month, including amounts for topical treatments.

4 (e) The establishment of standards, procedures, and protocols to ensure
5 that all prescribed therapeutic marijuana dispensed is consistently
6 pharmaceutical grade.

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

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

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

15 (i) The establishment of health, safety, and security requirements for
16 dispensers of prescribed therapeutic marijuana.

17 (j) Licensure of dispensers of prescribed therapeutic marijuana.

18 (k) The establishment of financial requirements for applicants of
19 therapeutic marijuana dispensing pharmacy license under which each applicant
20 demonstrates the following:

21 (i) The financial capacity to operate a therapeutic marijuana dispensing
22 pharmacy.

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

26 D. The Louisiana Board of Pharmacy shall submit a report to the
27 legislature no later than January 1, 2016, with recommendations on possible fee
28 amounts relative to the provisions of this Section.

29 E. All rules shall be adopted in accordance with the provisions of the
30 Administrative Procedure Act.

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

5 **G. Marijuana, tetrahydrocannabinols, or a chemical derivative of**
6 **tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed**
7 **in person from a licensed pharmacy in good standing located in Louisiana.**

8 **H. A prescriber and dispenser of marijuana, tetrahydrocannabinols, or**
9 **a chemical derivative of tetrahydrocannabinols pursuant to this Section shall**
10 **review the patient's information in the Prescription Monitoring Program**
11 **database prior to the prescribing and dispensing thereof.**

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

18 **J.(1) The Department of Agriculture and Forestry shall develop the rules**
19 **and regulations regarding the production of prescribed therapeutic marijuana**
20 **and the facility producing therapeutic marijuana. The rules and regulations**
21 **shall include but not be limited to the procedures for application, qualifications,**
22 **eligibility, background checks, and standards for suitability for a license and**
23 **penalties for violations of the rules and regulations.**

24 **(2) The Department of Agriculture and Forestry shall develop an annual,**
25 **nontransferable specialty license for the production of prescribed marijuana for**
26 **therapeutic use and shall limit the number of such licenses granted in the state**
27 **to no more than one licensee. The Louisiana State University Agricultural**
28 **Center and the Southern University Agricultural Center shall have the right of**
29 **first refusal to be licensed as the production facility, either separately or jointly.**
30 **If neither of the centers exercise this option, the license shall be awarded**

1 pursuant to the requirements provided for in Paragraphs (3) through (5) of this
2 Subsection.

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

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

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

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

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

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

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

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

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

13 (6)(a) The Department of Agriculture shall collect the following
14 information from each licensee:

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

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

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

22 (iv) The amount of therapeutic chemicals produced resulting from the
23 marijuana grown pursuant to this Section.

24 (v) The amounts paid each year to the licensee related to the licensee's
25 production of therapeutic marijuana pursuant to this Section.

26 (vi) The amount of therapeutic marijuana distributed to each pharmacy
27 licensed to dispense therapeutic marijuana in this state during each calendar
28 year.

29 (b) The Department of Agriculture and Forestry shall provide the
30 information collected pursuant to this Paragraph for the previous calendar year

1 in the form of a written report to the Louisiana Legislature no later than
2 February first of each year. The department shall also make a copy of the
3 report required by this Subparagraph available to the public on the Internet.

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

10 (8) The Department of Agriculture and Forestry shall submit a report
11 to the legislature no later than January 1, 2016, with recommendations on
12 possible fee amounts relative to the provisions of this Section.

13 K. The levels of THC in any marijuana produced pursuant to this
14 Section shall be reduced to the lowest acceptable therapeutic levels available
15 through scientifically accepted methods.

16 L. The provisions of this Section shall terminate on January 1, 2020.

17 Section 2. This Act shall be known and may be cited as "The Alison Neustrom Act".

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____