

2019 Regular Session

SENATE BILL NO. 61

BY SENATOR BOUDREAUX

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

AGRICULTURE/FOREST DEPT. Creates the Louisiana Commission on Medicinal Plants.
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AN ACT

To amend and reenact the introductory paragraph of R.S. 36:802 and to enact Chapter 24-A of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 3:3901 through 3905, and R.S. 36:629(T), relative to medicinal plants; to create the Louisiana Commission on Medicinal Plants; to provide for definitions; to provide for qualifications and membership of the commission; to provide for powers of the commission; to provide for adjudicatory hearings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 24-A of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:3901 through 3905, is hereby enacted to read as follows:

CHAPTER 24-A. LOUISIANA COMMISSION ON MEDICINAL PLANTS

§3901. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Chairman" means the chairman of the commission.

(2) "Commission" means the Louisiana Commission on Medicinal Plants.

1 **(3) "Commissioner" means the commissioner of agriculture and**
2 **forestry.**

3 **(4) "Licensee" means a holder of a license for the production of**
4 **marijuana for therapeutic use pursuant to R.S. 40:1046(H).**

5 **§3902. Louisiana Commission on Medicinal Plants; creation and organization**

6 **A. The Louisiana Commission on Medicinal Plants is hereby created**
7 **within the Department of Agriculture and Forestry to advise the commissioner**
8 **on the regulation of medicinal plants to protect the interests, health, safety, and**
9 **welfare of the citizens of Louisiana. The commission shall be domiciled in Baton**
10 **Rouge.**

11 **B. The commission shall consist of seven members as follows:**

12 **(1) One farmer from the state at large appointed by the commissioner.**

13 **(2) One member from the state at large appointed by the commissioner.**

14 **(3) One member appointed by the Louisiana State Board of Medical**
15 **Examiners.**

16 **(4) One member appointed by the Louisiana Board of Pharmacy.**

17 **(5) One member appointed by the Louisiana Sheriffs' Association.**

18 **(6) One member appointed by the Louisiana District Attorneys**
19 **Association.**

20 **(7) The secretary of the Louisiana Department of Health or his designee.**

21 **C. Each member appointed by the commissioner shall submit to a**
22 **criminal background check and a Louisiana tax clearance.**

23 **D. The member appointed by the commissioner from the state at large**
24 **shall possess the following qualifications at the time of appointment:**

25 **(1) Is eighteen years of age or older.**

26 **(2) Has never been convicted of a felony.**

27 **(3) Does not have and has never had a material financial interest in the**
28 **medical marijuana or hemp industry in the state of Louisiana.**

29 **(4) Is a citizen of the United States and has been a resident of Louisiana**

1 for at least one year immediately prior to appointment.

2 E. Members shall sign a nondisclosure agreement to protect a licensee's
3 proprietary information.

4 F. Members shall be appointed for terms concurrent with the term of
5 the commissioner. Members shall serve until their successors in office are
6 appointed and qualified.

7 G. Vacancies shall be filled in the manner of the original appointment
8 for the unexpired portion of the term.

9 H. A majority of the members of the commission shall constitute a
10 quorum for the transaction of business. All official actions of the commission
11 shall require the affirmative vote of a majority of the members of the
12 commission in attendance.

13 I. The commissioner may appoint an alternate member for each
14 member he appoints. If a member cannot attend a meeting, the alternate
15 member may serve as the member's representative if the member notifies the
16 commission that he is unable to attend and that he wishes the alternate member
17 to serve as his representative. Alternate members shall have voting rights.

18 J. The commission, by a vote of two-thirds of the members, may expel
19 a member who has accumulated three consecutive unexcused absences from
20 commission meetings.

21 K. Members of the commission shall serve without compensation.

22 L. The commission shall meet upon the call of the chairman or upon the
23 request of any three members. The commission shall meet at least two times per
24 calendar year.

25 §3903. Officers and employees

26 A. The members of the commission shall annually elect a chairman, a
27 vice chairman, and such other officers as they deem necessary from the
28 membership.

29 B. The commissioner may employ a director and an assistant director

1 who shall be in the unclassified service. The commissioner may employ such
2 other personnel of the commission as he deems appropriate. All employees of
3 the commission shall be under the direction and supervision of the
4 commissioner.

5 §3904. Powers

6 The commission shall have the following powers:

7 (1) To advise the commissioner on the qualifications and requirements
8 for the issuance of licenses, certificates, and permits pursuant to R.S.
9 40:1046(H).

10 (2) To hold adjudicatory hearings on alleged violations of the provisions
11 of R.S. 40:1046(H) or of the rules and regulations adopted pursuant to the
12 provisions of R.S. 40:1046(H).

13 (3) To advise the commissioner on the civil penalties to be imposed or the
14 injunctive relief to be sought to punish and restrain violations of the provisions
15 of R.S. 40:1046(H) or of the rules and regulations adopted pursuant to the
16 provisions of R.S. 40:1046(H).

17 (4) To advise the commissioner on rules and regulations promulgated
18 pursuant to R.S. 40:1046(H).

19 (5) To recommend that the commissioner suspend or revoke licenses,
20 certificates, and permits or impose probation on holders of licenses, certificates,
21 or permits.

22 (6) To hold hearings and conduct investigations.

23 (7) To adopt bylaws for the orderly management of the affairs of the
24 commission.

25 (8) Should it become legal to grow hemp plants as an agricultural crop
26 in Louisiana, the commission shall:

27 (a) Advise the commissioner on the qualifications and requirements for
28 the issuance of licenses, certificates, and permits relative to hemp production.

29 (b) Hold adjudicatory hearings on alleged violations and advise the

1 commissioner on civil penalties to be imposed or the injunctive relief to be
2 sought to punish and restrain violations.

3 (c) Advise the commissioner on rules and regulations within his
4 authority.

5 §3905. Adjudicatory hearings

6 All adjudicatory hearings held by the commission shall be conducted as
7 follows:

8 (1) The commissioner shall convene the commission for the purpose of
9 hearing the matter.

10 (2) The commission shall appoint a hearing officer to preside over the
11 hearing.

12 (3) The commission may issue subpoenas to compel the attendance of
13 witnesses or the production of documents and records.

14 (4) The hearing shall be conducted in accordance with the provisions of
15 the Administrative Procedure Act.

16 (5) The commission shall make an initial determination on the matter
17 which shall be submitted to the commissioner in writing.

18 (6) The commissioner shall make the final determination on the matter.
19 If the determination of the commissioner differs from the determination of the
20 commission, the commissioner shall issue a written opinion based upon the
21 record of the hearing.

22 (7) Except as otherwise provided in this Section, appeals from rulings
23 of the commissioner shall be taken in accordance with the provisions of the
24 Administrative Procedure Act.

25 Section 2. The introductory paragraph of R.S. 36:802 is hereby amended and
26 reenacted and R.S. 36:629(T) is hereby enacted to read as follows:

27 §629. Transfer of boards, commissions, departments, and agencies to the
28 Department of Agriculture and Forestry

29 * * *

1 **T. The Louisiana Commission on Medicinal Plants (R.S. 3:3901 et seq.)**
 2 **is transferred to and hereafter shall be within the Department of Agriculture**
 3 **and Forestry as provided in R.S. 36:802.**

4 * * *

5 §802. Transfer; retention of policymaking and rulemaking functions

6 The agencies transferred by the provisions of R.S. 36:209(Q) and (Y),
 7 259(B)(19), 309(B), 409(C), 459(B), 610(B), 629(I) **and (T)**, and 769(C) shall
 8 continue to be composed and selected as provided by law, and each shall continue
 9 to exercise all of the powers, duties, functions, and responsibilities provided or
 10 authorized for each by the constitution or laws which are in the nature of
 11 policymaking, rulemaking, licensing, regulation, enforcement, or adjudication and
 12 also shall continue to exercise all advisory powers, duties, functions, and
 13 responsibilities provided by law. Such powers, duties, functions, and responsibilities
 14 shall be exercised independently of the secretary and any assistant secretary, except
 15 that:

16 * * *

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Curry Lann.

SB 61 Original DIGEST 2019 Regular Session Boudreaux

Proposed law creates the Louisiana Commission on Medicinal Plants within the Dept. of Agriculture and Forestry for the purpose of advising the commissioner on the regulation of medicinal plants to protect the interests, health, safety, and welfare of the citizens of Louisiana.

Proposed law provides for the following definitions:

- (1) "Chairman" means the chairman of the commission.

- (2) "Commission" means the La. Commission on Medicinal Plants.
- (3) "Commissioner" means the commissioner of agriculture and forestry.
- (4) "Licensee" means a holder of a license for the production of marijuana for therapeutic use pursuant to R.S. 40:1046(H).

Proposed law provides for the membership of the commission, comprised of seven members, as follows:

- (1) One farmer from the state at large appointed by the commissioner.
- (2) One member from the state at large appointed by the commissioner.
- (3) One member appointed by the La. State Board of Medical Examiners.
- (4) One member appointed by the La. Board of Pharmacy.
- (5) One member appointed by the La. Sheriffs' Association.
- (6) One member appointed by the La. District Attorneys Association.
- (7) The secretary of the La. Department of Health or his designee.

Proposed law requires each member appointed by the commissioner to submit to a criminal background check and a Louisiana tax clearance.

Proposed law requires the member appointed by the commissioner from the state at large to possess the following qualifications at the time of appointment:

- (1) Is eighteen years of age or older.
- (2) Has never been convicted of a felony.
- (3) Does not have and has never had a material financial interest in the medical marijuana or hemp industry in Louisiana.
- (4) Is a citizen of the U.S. and has been a resident of Louisiana for at least one year immediately prior to appointment.

Proposed law requires members to sign a nondisclosure agreement to protect a licensee's proprietary information.

Proposed law requires members to serve terms concurrent with the commissioner and vacancies to be filled in the same manner as the original appointments.

Proposed law prohibits members of the commission from receiving any compensation.

Proposed law requires the commission to meet upon the call of the chairman or upon the request of any three members. The commission shall meet at least two times per calendar year.

Proposed law requires the members of the commission to annually elect a chairman and vice chairman, and such other officers as they deem necessary.

Proposed law authorizes the commissioner to employ a director and an assistant director in the unclassified service.

Present law (R.S. 40:1046(H)) authorizes the Dept. of Agriculture and Forestry to develop rules and regulations regarding the extraction, processing, and production of recommended therapeutic marijuana and the facility producing therapeutic marijuana and grant licenses for the production of recommended marijuana for therapeutic use.

Proposed law retains present law.

Proposed law provides the commission with the following powers:

- (1) To advise the commissioner on the qualifications and requirements for the issuance of licenses, certificates, and permits pursuant to R.S. 40:1046(H).
- (2) To hold adjudicatory hearings on alleged violations of the provisions of R.S. 40:1046(H) or of the rules and regulations adopted pursuant to the provisions of R.S. 40:1046(H).
- (3) To advise the commissioner on the civil penalties to be imposed or the injunctive relief to be sought to punish and restrain violations of the provisions of R.S. 40:1046(H) or of the rules and regulations adopted pursuant to the provisions of R.S. 40:1046(H).
- (4) To advise the commissioner on rules and regulations promulgated pursuant to R.S. 40:1046(H).
- (5) To recommend that the commissioner suspend or revoke licenses, certificates, and permits or impose probation on holders of licenses, certificates, or permits.
- (6) To hold hearings and conduct investigations.
- (7) To adopt bylaws for the orderly management of the affairs of the commission.
- (8) Should it become legal to grow hemp plants as an agricultural crop in Louisiana, the commission shall:
 - (a) Advise the commissioner on the qualifications and requirements for the issuance of licenses, certificates, and permits.
 - (b) Hold adjudicatory hearings on alleged violations and advise the commissioner on civil penalties to be imposed or the injunctive relief to be sought to punish and restrain violations.
 - (c) Advise the commissioner on rules and regulations within his authority.

Proposed law requires all adjudicatory hearings convened by the commissioner to be conducted in accordance with the provisions of the APA.

Proposed law authorizes the commission to issue subpoenas and make an initial determination on all matters.

Proposed law requires the commissioner to make the final determination on all matters and issue a written opinion if his determination differs from the initial determination of the commission.

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

(Amends R.S. 36:802(intro para); adds R.S. 3:3901-3905 and R.S. 36:629(T))