

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 dollars
10 and an annual permit fee of one hundred dollars for administrative and inspection
11 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 determining
5 the amount of usable prescribed therapeutic cannabis that is necessary to constitute
6 an adequate supply to ensure uninterrupted availability for a period of one month,
7 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 ethanol
23 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 in
23 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.

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

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

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

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

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

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

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

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19 Louisiana Legislature are hereby repealed in their entirety.

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

25 Section 5. This Section, Section 2, and Section 3 of this Act shall become effective
26 and become operative if and when the United States Drug Enforcement Administration
27 reclassifies marijuana from a Schedule I drug to a Schedule II drug under the authority of
28 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.

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)]

HB 568 Original

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)