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## DIGEST

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HB 699 Engrossed

2021 Regular Session

Nelson

**Abstract:** Provides for the decriminalization of marijuana for recreational use and regulation of that product by the office of alcohol and tobacco control (ATC)

Proposed law provides for the repeal of all of the following:

- (1) Present law classifying marijuana as a controlled dangerous substance.
- (2) Present law providing criminal penalties for possession and distribution of marijuana.
- (3) Present law providing for immunity from prosecution for possession of marijuana in certain circumstances which would become inapplicable if marijuana is legalized.

### **Regulation of Cannabis Cultivation and Processing**

Proposed law defines "cannabis" as all parts of plants of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination.

Proposed law authorizes the department of alcohol and tobacco control to exercise regulatory authority over the cultivation, processing, and manufacturing of cannabis products in this state in accordance with the provisions of proposed law.

Proposed law prohibits the cultivation, transportation, processing, and manufacturing of cannabis or cannabis products without a license issued by ATC in accordance with proposed law.

Proposed law provides for powers and duties of the commissioner of ATC with respect to cannabis cultivation and processing.

Proposed law requires ATC to develop an annual, nontransferable cannabis business license to be issued in the following categories:

- (1) A cannabis commercial grower license, which shall authorize the licensee to produce,

transport, and sell approved cannabis seeds and cultivate, handle, and transport cannabis in this state.

- (2) A cannabis processor license, which shall authorize the licensee to handle, process, and transport cannabis and cannabis products in this state.
- (3) A cannabis contract carrier license, which shall authorize the licensee to transport cannabis and cannabis products from a licensed cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state to a licensed cannabis commercial grower, licensed cannabis processor, or licensed cannabis retailer in this state.
- (4) A cannabis retailer license, which shall authorize the licensee to sell, offer to sell, expose for sale, or possess for sale of cannabis.

Proposed law provides for requirements, authorizations, restrictions, and prohibitions associated with each type of license to be issued by ATC. Requires criminal background checks on applicants for licensure, provides for conditions for eligibility for licensure, and establishes suitability requirements for licensees.

Proposed law prohibits cannabis commercial growers and cannabis processors from being located in any "drug free zone" as defined in present law, R.S. 17:405(A).

Proposed law stipulates that the number of cannabis business licenses or license categories that an applicant may apply for or receive shall not be limited. Provides that a cannabis commercial grower, cannabis processor, and cannabis contract carrier may share the same address or physical location, subject to restrictions set forth in administrative rules of ATC.

Proposed law requires that, notwithstanding any other provision of proposed law, ATC shall issue a cannabis commercial grower license, cannabis processor license, and cannabis contract carrier license to each entity that holds a medical marijuana production license issued pursuant to present law, R.S. 40:1046, without necessity of an application for the licenses.

Proposed law requires ATC to develop an annual personal cultivation license for cultivation and possession of cannabis plants by individuals for personal use. Provides that the license shall authorize the licensee to cultivate and possess up to six cannabis plants for personal consumption. Stipulates that the license shall not authorize the licensee to sell any part of a cannabis plant to any person.

Proposed law requires that an individual be 21 years of age or older in order to be eligible for a personal cultivation license.

Proposed law provides standards and restrictions pertaining to cultivation of cannabis by persons who hold a personal cultivation license.

Proposed law provides that nothing therein shall be construed to limit any privileges or rights of a

patient to whom therapeutic marijuana has been recommended or of a therapeutic marijuana production facility as provided for in present law, R.S. 40:1046.

Proposed law requires the commissioner to solicit broad public input and participation in developing the framework for regulation of cannabis retailers provided for in proposed law. Requires the commissioner to initiate the promulgation of all rules required by proposed law through the notice of intent process provided for in present law, R.S. 49:953(A), prior to Dec. 1, 2021.

Proposed law provides that the commissioner shall take no action to enforce the provisions of proposed law prior to the 60th day after the date of adoption of the administrative rules required by proposed law.

### **Regulation of Retail Sale of Cannabis**

Proposed law requires the commissioner of alcohol and tobacco control in the Department of Revenue, referred to hereafter as the "commissioner", to develop a cannabis retailer license and adopt rules and regulations pertaining to the license. Requires that prior to selling, offering for sale, exposing for sale, or possessing for sale or distribution cannabis in any quantity, a person shall obtain a license in accordance with the provisions of proposed law.

Proposed law requires that an applicant for a retailer license meet the following qualifications:

- (1) Be 21 years of age or older.
- (2) Provide proof of valid lease or ownership of premises in which the business will be located.
- (3) Shall not be convicted of any offense involving a narcotic listed in Schedule I of present law known as the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq., provided the offense was not marijuana-related.

Proposed law prohibits cannabis retailers from being located in any "drug free zone" as defined in present law, R.S. 17:405(A).

Proposed law requires that retail locations contain a restricted area where cannabis and cannabis products are stored and sold. Provides that all of the following requirements shall apply with respect to such restricted areas:

- (1) The restricted areas shall be supervised by a retailer employee at all times when customers are present to ensure that only persons who are 21 years of age and older are permitted to enter.
- (2) Retailer employees shall make reasonable efforts to limit the number of customers in relation to the number of employees present in the restricted area at any time.

Proposed law requires, notwithstanding other provisions of proposed law, that the commissioner

shall issue a cannabis retailer license to each entity that holds a marijuana pharmacy license issued pursuant to present law, R.S. 40:1046, without necessity of an application for the license.

Proposed law prohibits persons under 21 years of age from entering the premises of, or being employed in, a cannabis retail establishment.

Proposed law prohibits cannabis retailers from all of the following activities:

- (1) The sale of more than one ounce of cannabis or cannabis products to any individual per calendar day.
- (2) The sale of cannabis or cannabis products over the internet. All sales of cannabis and cannabis products must take place within a cannabis retail location.
- (3) The sale or giving away of any consumable that is not cannabis or cannabis product, including but not limited to cigarettes or tobacco products, alcoholic beverages, food products, and non-alcohol beverages.
- (4) Advertising in violation of restrictions provided in proposed law.

Proposed law prohibits cannabis retailers from advertising through any means other than a single internet website and signage at its premises that conforms with the following standards:

- (1) There may be a maximum of two separate signs on the exterior of its premises which identify the business by its business or trade name.
- (2) No sign shall exceed 1,600 square inches in size.

Proposed law specifically prohibits cannabis retailers from advertising through public media including, without limitation, newspapers, billboards, television, radio, social media, and internet advertising on any website other than the single site allowed by Paragraph (1) of this Subsection.

Proposed law provides causes for suspension and revocation of cannabis retailer licenses. Prohibits cannabis retailers from doing or permitting any of the following acts on or about the licensed premises:

- (1) Selling or serving cannabis products to any person under 21 years of age.
- (2) Intentionally enticing, aiding, or permitting any person under the age of 21 to visit or loiter in or about any place where cannabis products are the principal commodities sold, handled, or given away.
- (3) Permitting any person under 21 years of age to work in any capacity on the premises.
- (4) Permitting any prostitution activities on the premises.

- (5) Permitting the consumption of cannabis or cannabis products on the premises.
- (6) Intentionally conducting illegal gambling, as defined by present law, on the premises described in the application for the license.
- (7) Failing to keep the premises clean and sanitary.
- (8) Illegally selling, offering for sale, possessing, or permitting the consumption on or about the licensed premises of any kind or type of controlled dangerous substances or other illegal substances.
- (9) Permitting any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct, or practices on the licensed premises.

Proposed law requires the commissioner of ATC to solicit broad public input and participation in developing the framework for regulation of cultivators, commercial growers, seed producers, contract carriers, and processors of cannabis and cannabis products provided for in proposed law. Requires the commissioner to initiate the promulgation of all rules required by proposed law through the notice of intent process provided for in present law, R.S. 49:953(A), prior to Dec. 1, 2021.

Proposed law provides that the commissioner of ATC shall take no action to enforce the provisions of proposed law prior to the 60th day after the date of adoption of the administrative rules required by proposed law.

### **Unlawful Sale, Purchase, and Possession of Cannabis Products**

Proposed law provides that unlawful sale of cannabis to persons under 21 is the selling or otherwise delivering for value of any cannabis product to any person under 21 years of age. Provides that lack of knowledge of the person's age shall not be a defense. Provides that whoever violates proposed law shall be fined not less than \$500 nor more than \$1,000 or imprisoned for not less than 30 days nor more than six months, or both.

Proposed law provides that it is unlawful for any person under 21 years of age to purchase or have public possession of any cannabis product. Provides that, for purposes of proposed law, "public possession" means the possession of any cannabis product for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. Stipulates, however, that "public possession" does not include the following:

- (1) The possession or consumption of any cannabis product:
  - (a) For an established religious purpose.
  - (b) When a person under 21 years of age is accompanied by a parent, spouse, or legal guardian 21 years of age or older.

- (c) In a private residence, which shall include a residential dwelling and up to 20 contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.
- (2) Possession of medical marijuana which has been recommended to a patient and dispensed in accordance with present law, R.S. 40:1046.

Proposed law provides that whoever violates its prohibition on persons under 21 purchasing or having public possession of any cannabis product shall be fined not more than \$100. Provides that any person apprehended while violating the provisions of proposed law shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. Stipulates that a citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

Proposed law provides that it is unlawful for any person, other than a parent, spouse, or legal guardian, to purchase on behalf of a person under 21 years of age any cannabis product. Provides that whoever violates the provisions of proposed law shall be fined not more than \$500 or imprisoned for not more than 30 days, or both.

Proposed law provides that nothing therein shall be construed as relieving any licensed cannabis retailer of any responsibilities imposed under proposed law relative to licensure and regulation of such retailers.

Proposed law provides that the commissioner shall not issue a license if it has been prohibited in a parish or municipality.

(Amends the heading of Title 26, R.S. 36:451(B) and 458(E), R.S. 40:966(B)(2)(intro. para.) and (D)(1) and 1046(K), and R.S. 47:287.73(C)(1) and 301(10)(ii); Adds R.S. 14:93.21-26, R.S. 26:941-965, and R.S. 40:1046(L); Repeals R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F))