

2021 Regular Session

HOUSE BILL NO. 524

BY REPRESENTATIVE NELSON

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

DRUGS: Provides for decriminalization of marijuana and regulation of marijuana for recreational use

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(2)(introductory paragraph) and (D)(1), to enact

3 Division 5 of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised

4 Statutes of 1950, to be comprised of R.S. 14:93.21 through 93.25, Chapter 9 of Title

5 26 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 26:941 though

6 948, R.S. 40:989.4, Part XIII of Chapter 4 of Title 40 of the Louisiana Revised

7 Statutes of 1950, to be comprised of R.S. 40:1058.1 through 1058.10, and to repeal

8 R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F), relative to the legal status of

9 marijuana; to provide for a proposition on legalization of marijuana to appear on the

10 ballot in every parish at a statewide election; to repeal, contingent upon the outcome

11 of the election on the proposition, laws which criminalize the possession of

12 marijuana; to provide for a legal and regulatory framework relative to production of

13 cannabis products and sale of such products to consumers over a certain age; to

14 create and provide for crimes relating to unlawful sale, purchase, and possession of

15 cannabis products; to authorize the Louisiana Department of Health to regulate the

16 cultivation, processing, and manufacturing of cannabis products; to authorize the

17 office of alcohol and tobacco control to regulate the retail sale of cannabis products;

18 to require permitting by the state of cannabis retailers; to require licensure by the

19 state of cannabis commercial growers, cannabis processors, and cannabis contract

1 carriers; to create and provide requirements associated with permits to be issued by  
2 the state to allow cultivation and possession of cannabis plants by individuals for  
3 personal use; to require promulgation of administrative rules; to provide for  
4 effectiveness; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Division 5 of Subpart B of Part V of Chapter 1 of Title 14 of the  
7 Louisiana Revised Statutes of 1950, comprised of R.S. 14:93.21 through 93.25, is hereby  
8 enacted to read as follows:

9 5. UNLAWFUL SALE, PURCHASE, AND POSSESSION

10 OF CANNABIS PRODUCTS

11 §93.21. Definitions

12 For purposes of R.S. 14:93.21 through 93.25, the following definitions  
13 apply:

14 (1) "Cannabis product" has the meaning ascribed in R.S. 26:941.

15 (2) "Public possession" means the possession of any cannabis product for  
16 any reason, including consumption, on any street, highway, or waterway or in any  
17 public place or any place open to the public, including a club which is de facto open  
18 to the public. "Public possession" does not include the following:

19 (a) The possession or consumption of any cannabis product:

20 (i) For an established religious purpose.

21 (ii) When a person under twenty-one years of age is accompanied by a  
22 parent, spouse, or legal guardian twenty-one years of age or older.

23 (iii) In a private residence, which shall include a residential dwelling and up  
24 to twenty contiguous acres, on which the dwelling is located, owned by the same  
25 person who owns the dwelling.

26 (b) Possession of medical marijuana which has been recommended to a  
27 patient and dispensed in accordance with R.S. 40:1046.

28 (3) "Purchase" means acquisition by the payment of money or other  
29 consideration.

1        §93.22. Unlawful sale of cannabis to persons under twenty-one

2                A. Unlawful sale of cannabis to persons under twenty-one is the selling or  
3        otherwise delivering for value of any cannabis product to any person under  
4        twenty-one years of age. Lack of knowledge of the person's age shall not be a  
5        defense.

6                B. Whoever violates the provisions of this Section shall be fined not less  
7        than five hundred dollars nor more than one thousand dollars or imprisoned for not  
8        less than thirty days nor more than six months, or both.

9        §93.23. Purchase and public possession of cannabis products; exceptions; penalties

10               A. It is unlawful for any person under twenty-one years of age to purchase  
11        or have public possession of any cannabis product.

12               B.(1) Whoever violates the provisions of this Section shall be fined not more  
13        than one hundred dollars.

14               (2) Any person apprehended while violating the provisions of this Section  
15        shall be issued a citation by the apprehending law enforcement officer, which shall  
16        be paid in the same manner as provided for the offenders of local traffic violations.  
17        A citation issued by a law enforcement officer for such violation shall not be  
18        included on the person's criminal history record.

19        §93.24. Unlawful purchase of cannabis products by persons on behalf of persons  
20        under twenty-one

21               A. It is unlawful for any person, other than a parent, spouse, or legal  
22        guardian, as specified in R.S. 14:93.21(2)(a)(ii), to purchase on behalf of a person  
23        under twenty-one years of age any cannabis product.

24               B. Whoever violates the provisions of this Section shall be fined not more  
25        than five hundred dollars or imprisoned for not more than thirty days, or both.

26        §93.25. Responsibilities of cannabis retailers not relieved

27               Nothing in R.S. 14:93.21 through 93.24 shall be construed as relieving any  
28        licensed cannabis retailer of any responsibilities imposed under the provisions of  
29        Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950.

1 Section 2. Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950,  
2 comprised of R.S. 26:941 through 948, is hereby enacted to read as follows:

3 CHAPTER 9. CANNABIS AND CANNABIS PRODUCTS

4 §941. Definitions

5 (1) "Cannabis" means all parts of plants of the genus Cannabis, whether  
6 growing or not, the seeds thereof, the resin extracted from any part of such plant, and  
7 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,  
8 its seeds, or resin; but shall not include the mature stalks of such plant, fiber  
9 produced from such stalks, oil or cake made from the seeds of such plant, any other  
10 compound, manufacture, salt, derivative, mixture, or preparation of such mature  
11 stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed  
12 of such plant which is incapable of germination.

13 (2) "Cannabis-infused product" means any product that contains cannabis or  
14 cannabis extracts, is intended for human use, and is derived from cannabis as defined  
15 in this Section. The term "cannabis-infused product" shall not include either usable  
16 cannabis or cannabis concentrates.

17 (3) "Cannabis product" means any usable cannabis and cannabis-infused  
18 product as defined in this Section.

19 (4) "Cannabis retailer" means any person, other than a wholesaler, who sells,  
20 offers for sale, exposes for sale, or has in his possession for sale or distribution any  
21 cannabis in any quantity.

22 (5) "Commissioner" means the commissioner of alcohol and tobacco control  
23 who shall be the assistant secretary of the office of alcohol and tobacco control in the  
24 Department of Revenue.

25 (6) "Usable cannabis" means the dried leaves and flowers of the cannabis  
26 plant, and any mixture or preparation thereof, but shall not include the seeds, stalks,  
27 and roots of the plant.

1        §942. Cannabis retailer permit

2            A. The commissioner shall develop, as authorized by this Chapter, a  
3        cannabis retailer permit and shall adopt rules and regulations that specify the  
4        identifying information that is required to appear on the face of each of permit. Prior  
5        to selling, offering for sale, exposing for sale, or possessing for sale or distribution  
6        cannabis in any quantity, a person shall obtain a permit in accordance with the  
7        provisions of this Section.

8            B.(1) The commissioner shall issue permits that are valid for a period of two  
9        years unless suspended or revoked pursuant to R.S. 26:948.

10          (2) Applicants shall contact the commissioner regarding the renewal of all  
11        permits prior to the end of the term of the permit in accordance with the provisions  
12        of this Chapter.

13          C. The fee for each retailer permit shall be established by rules promulgated  
14        pursuant to the provisions of the Administrative Procedure Act, but shall not exceed  
15        the amount authorized for the permit in Chapter 20 of Subtitle II of Title 47 of the  
16        Louisiana Revised Statutes of 1950.

17        §943. General requirements and qualifications for permits; premises

18          A. An applicant for a retailer permit shall meet the following qualifications:

19            (1) Be twenty-one years of age or older.

20            (2) Provide proof of valid lease or ownership of premises in which the  
21        business will be located.

22            (3) Shall not be convicted of any offense involving a narcotic listed in  
23        Schedule I of the Uniform Controlled Dangerous Substances Law, provided the  
24        offense was not marijuana-related.

25          B. No retail location shall be located in a "drug free zone" as defined in R.S.  
26        17:405(A).

27          C. Retail locations shall contain a restricted area where cannabis and  
28        cannabis products are stored and sold. All of the following requirements shall apply  
29        with respect to such restricted areas:

1           (1) The restricted areas shall be supervised by a retailer employee at all times  
2           when customers are present to ensure that only persons who are twenty-one years of  
3           age and older are permitted to enter.

4           (2) Retailer employees shall make reasonable efforts to limit the number of  
5           customers in relation to the number of employees present in the restricted area at any  
6           time.

7           D. The commissioner may promulgate rules in accordance with the  
8           Administrative Procedure Act to establish additional requirements relative to  
9           cannabis retailers.

10          §944. Issuance of permits to marijuana pharmacies

11           Notwithstanding the provisions of R.S. 26:943, the commissioner shall issue  
12          a cannabis retailer permit to each entity that holds a marijuana pharmacy license  
13          issued pursuant to R.S. 40:1046 without necessity of an application for the permit.  
14          The commissioner shall issue the permit to the entity free of charge.

15          §945. Cannabis retail establishments; age requirements for entry

16           No person under twenty-one years of age shall enter the premises of, or be  
17          employed in, a cannabis retail establishment.

18          §946. Cannabis retailer restrictions

19           Cannabis retailers shall be prohibited from all of the following activities:

20           (1) The sale of more than one ounce of cannabis or cannabis products to any  
21          individual per calendar day.

22           (2) The sale of cannabis or cannabis products over the internet. All sales of  
23          cannabis and cannabis products shall take place within a cannabis retail location.

24           (3) The sale or giving away of any consumable that is not cannabis or  
25          cannabis product, including but not limited to cigarettes or tobacco products,  
26          alcoholic beverages, food products, and non-alcohol beverages.

27           (4) Advertising in violation of R.S. 26:947.

1        §947. Advertisement by cannabis retailers; limitations; certain advertising  
2                    prohibited

3                    A.(1) No cannabis retailer shall advertise through any means other than a  
4                    single internet website and signage at its premises that conforms with the standards  
5                    provided in Subsection B of this Section.

6                    (2) Except as allowed by Paragraph (1) of this Subsection, each cannabis  
7                    retailer is specifically prohibited from advertising through public media including,  
8                    without limitation, newspapers, billboards, television, radio, social media, and  
9                    internet advertising on any website other than the single site allowed by Paragraph  
10                   (1) of this Subsection.

11                   B. A cannabis retailer may attach a maximum of two separate signs to the  
12                   exterior of its premises which identify the business by its business or trade name.  
13                   No such sign shall exceed one thousand six hundred square inches in size.

14        §948. Suspension and revocation of retailer permits

15                   A. No person holding a permit issued in accordance with the provisions of  
16                   this Chapter and no agent, associate, employee, representative, or servant agent of  
17                   any person, shall do or permit any of the following acts to be done on or about the  
18                   licensed premises:

19                   (1)(a) Sell or serve cannabis or cannabis products to any person under  
20                   twenty-one years of age. To determine the age of the consumer, the retailer shall  
21                   obtain any one of the following from the consumer:

22                   (i) A valid, current Louisiana driver's license which contains a photograph  
23                   of the person presenting the driver's license.

24                   (ii) A valid, current driver's license of another state which contains a  
25                   photograph of the person and the date of birth of the person submitting the driver's  
26                   license.

27                   (iii) A valid, current special identification card issued by the state of  
28                   Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting  
29                   the identification card.

1           (iv) A valid, current passport or visa issued by the federal government, or  
2           another country or nation, that contains a permanently attached photograph of the  
3           person and the date of birth of the person submitting the passport or visa.

4           (v) A valid, current military or federal identification card issued by the  
5           federal government containing a photograph of the person and the date of birth of the  
6           person submitting the identification card.

7           (vi) A valid, current special identification card of another state which  
8           contains a photograph of the person and the date of birth of the person submitting the  
9           identification card.

10           (b) Each form of identification provided for in Subparagraph (a) of this  
11           Paragraph shall, on its face, establish the age of the person as twenty-one years of  
12           age or older and there must be no reason to doubt the authenticity or correctness of  
13           the identification. No form of identification provided for in Subparagraph (a) of this  
14           Paragraph shall be accepted as proof of age if it is expired, defaced, mutilated, or  
15           altered. If the state identification card or lawful identification submitted is a  
16           duplicate, the person shall submit additional identification which contains the name,  
17           date of birth, and photograph of the person. A duplicate driver's license shall be  
18           considered lawful identification for the purposes of this Paragraph, and a person shall  
19           not be required to submit additional information containing the name, date of birth,  
20           and picture of the person. In addition, an educational institution identification card,  
21           check cashing identification card, or employee identification card shall not be  
22           considered as lawful identification for the purposes of this Paragraph.

23           (2) Intentionally entice, aid, or permit any person under the age of twenty-  
24           one to visit or loiter in or about any place where cannabis or cannabis products are  
25           the principal commodities sold, handled, or given away.

26           (3) Permit any person under twenty-one years of age to work in any capacity  
27           on the premises.

28           (4) Permit any prostitution activities on the premises.



1           (5) Permit the consumption of cannabis or cannabis products on the  
2 premises.

3           (6) Intentionally conduct illegal gambling, as defined by law, on the  
4 premises described in the application for the permit.

5           (7) Fail to keep the premises clean and sanitary.

6           (8) Illegally sell, offer for sale, possess, or permit the consumption on or  
7 about the licensed premises of any kind or type of controlled dangerous substances  
8 or other illegal substances.

9           (9) Permit any disturbance of the peace or obscenity, or any lewd, immoral,  
10 or improper entertainment, conduct, or practices on the licensed premises.

11           B. A violation of the provisions of this Section by a retailer's agent,  
12 associate, employee, representative, or servant shall be considered an act of the  
13 retailer for purposes of suspension or revocation of a permit.

14           C. A person who commits any violation of the provisions of this Section, or  
15 any rule or regulation of the commissioner, for which no other penalty is provided  
16 in this Section shall be imprisoned for not less than thirty days nor more than six  
17 months. Such violation shall also be sufficient cause for the suspension or  
18 revocation of a permit.

19           D. Notwithstanding the issuance of a permit by way of renewal, the  
20 commissioner may revoke or suspend such permit, as prescribed by this Chapter, for  
21 violations of this Section occurring during the permit period immediately preceding  
22 the issuance of such permit.

23           Section 3. R.S. 40:989.4 and Part XIII of Chapter 4 of Title 40 of the Louisiana  
24 Revised Statutes of 1950, comprised of R.S. 40:1058.1 through 1058.10, are hereby enacted  
25 to read as follows:

26           §989.4. Legalization of marijuana; election; ballot language

27           A.(1) At the statewide election occurring on November 8, 2022, a  
28 proposition shall appear on the ballot in every parish to determine whether the  
29 possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or

1 chemical derivatives thereof shall be legal for persons twenty-one years of age or  
2 older.

3 (2) The ballot for the election shall state as follows:

4 "PROPOSITION ON LEGALIZATION OF MARIJUANA

5 Shall persons twenty-one years of age or older be permitted to possess,  
6 purchase, sell, and produce marijuana, tetrahydrocannabinols, or chemical  
7 derivatives thereof which are regulated by the State of Louisiana?"

8 B.(1) If a majority of the qualified electors of the state voting on the  
9 proposition approve the proposition, then the possession, distribution, or dispensing  
10 of marijuana, tetrahydrocannabinols, or chemical derivatives thereof by persons  
11 twenty-one years of age or older shall no longer be a criminal offense.

12 (2) If a majority of the electors in any parish voting on the proposition do not  
13 approve the proposition, then neither the secretary nor the commissioner of alcohol  
14 and tobacco control shall issue any license for production, retail sale, processing, or  
15 personal cultivation of any marijuana or cannabis product in that parish.

16 C. The secretary of state shall prepare the ballot for the election.

17 D. Except as otherwise provided, the election required pursuant to this  
18 Section shall be conducted in accordance with the Louisiana Election Code.

19 E. Notwithstanding Chapter 8-A of the Louisiana Election Code, the costs  
20 of the election required by the provisions of this Section shall be borne by the state.

21 \* \* \*

22 PART XIII. CANNABIS

23 §1058.1. Purpose

24 The legislature hereby authorizes the Louisiana Department of Health to  
25 exercise regulatory authority over the cultivation, processing, and manufacturing of  
26 cannabis and cannabis products in this state in accordance with the provisions of this  
27 Part.

28 §1058.2. Definitions

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

1           (1) "Applicant" means a natural person, a corporation, limited liability  
2           company, partnership, joint stock association, sole proprietorship, joint venture,  
3           business association, cooperative association, professional corporation, or any other  
4           legal entity or organization through which business is conducted who has applied to  
5           the Louisiana Department of Health for a license to produce cannabis and cannabis  
6           products.

7           (2) "Bureau" means the Louisiana Bureau of Criminal Identification and  
8           Information of the office of state police within the Department of Public Safety and  
9           Corrections.

10           (3) "Cannabis" means all parts of plants of the genus Cannabis, whether  
11           growing or not, the seeds thereof, the resin extracted from any part of such plant, and  
12           every compound, manufacture, salt, derivative, mixture, or preparation of such plant,  
13           its seeds, or resin; but shall not include the mature stalks of such plant, fiber  
14           produced from such stalks, oil or cake made from the seeds of such plant, any other  
15           compound, manufacture, salt, derivative, mixture, or preparation of such mature  
16           stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed  
17           of such plant which is incapable of germination.

18           (4) "Cannabis-infused product" means any product that contains cannabis or  
19           cannabis extracts, is intended for human use, and is derived from cannabis as defined  
20           in this Section. The term "cannabis-infused product" shall not include either usable  
21           cannabis or cannabis concentrates.

22           (5) "Cannabis product" means any usable cannabis and cannabis-infused  
23           product as defined in this Section.

24           (6) "Criminal history record information" means information collected by  
25           state and federal criminal justice agencies on individuals consisting of identifiable  
26           descriptions and notations of arrests, detentions, indictments, bills of information,  
27           or any formal criminal charges, and any disposition arising therefrom, including  
28           sentencing, criminal correctional supervision, and release. It shall not include  
29           intelligence information gathered for investigatory purposes or any identification

1 information which does not indicate involvement of the individual in the criminal  
2 justice system.

3 (7) "Cultivate" or "cultivating" means planting, growing, and harvesting  
4 cannabis.

5 (8) "Department" means the Louisiana Department of Health.

6 (9) "FBI" means the Federal Bureau of Investigation of the United States  
7 Department of Justice.

8 (10) "Housing unit" means a house, apartment, or mobile home, or a group  
9 of rooms or a single room that is occupied as separate living quarters, in which the  
10 occupants live and eat separately from any other persons in the building and that has  
11 direct access from the outside of the building or through a common hall.

12 (11) "Licensee" means a natural person, a corporation, limited liability  
13 company, partnership, joint stock association, sole proprietorship, joint venture,  
14 business association, cooperative association, professional corporation, or any other  
15 legal entity or organization through which business is conducted who has been issued  
16 a license by the Louisiana Department of Health pursuant to the provisions of this  
17 Part.

18 (12) "Licensure" means any license or permit that the Louisiana Department  
19 of Health is authorized to issue to any cultivator, commercial grower, seed producer,  
20 contract carrier, and processor of cannabis and cannabis products.

21 (13) "Retailer" means an entity licensed by the office of alcohol and tobacco  
22 control pursuant to R.S. 26:941 et seq. to purchase cannabis products from licensed  
23 commercial growers and processors and to sell cannabis products to a consumer.

24 (14) "Secretary" means the secretary of the Louisiana Department of Health.

25 (15) "Usable cannabis" means the dried leaves and flowers of the cannabis  
26 plant, and any mixture or preparation thereof, but shall not include the seeds, stalks,  
27 and roots of the plant.

1        §1058.3. General requirements; prohibitions; testing; tracking

2            A. No person or entity shall cultivate, transport, process, or manufacture  
3        cannabis or cannabis products without a license issued by the department in  
4        accordance with the provisions of this Part.

5            B. The department shall require laboratory testing of cannabis products in  
6        a facility approved by the department prior to the transportation of such products  
7        from a commercial grower or processor to a licensed retailer.

8            C.(1) The department shall establish a seed-to-sale tracking system that  
9        tracks cannabis products from either the seed or immature plant stage until the  
10       products are sold to consumers by licensed retailers.

11           (2) The department shall not delay implementation of the program of  
12       licensure required by this Part pending establishment of the tracking system provided  
13       for in this Paragraph.

14        §1058.4. Powers and duties of the secretary

15           In addition to the powers, duties, and responsibilities otherwise vested in him  
16       by law, the secretary shall:

17           (1) Adopt rules and regulations as are necessary to implement the provisions  
18       of this Part in accordance with the Administrative Procedure Act. The rules and  
19       regulations shall include, without limitation, all of the following:

20           (a) Criteria for licensure and procedures for the issuance, renewal,  
21       suspension, and revocation of licenses.

22           (b) Application, license, and testing fees to be assessed as authorized in  
23       Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

24           (c) Security requirements for cultivation and product manufacturing  
25       facilities.

26           (d) Labeling and packaging requirements, including requirements for child-  
27       resistant packaging, health and safety warnings, potency, and activation time.

1           (e) Health and safety regulations and standards for the cultivation of  
2           cannabis and the manufacturing of cannabis products, including pesticide use and  
3           allowable extraction methods.

4           (2) Collect, administer, and disburse the proceeds of all fees, interest,  
5           penalties, and other monies collected pursuant to this Part.

6           (3) Administer and enforce the provisions of this Part and the rules and  
7           regulations adopted pursuant to this Part.

8           (4) Develop sampling and testing procedures to ensure safety and verify the  
9           potency of cannabis cultivated and cannabis products manufactured pursuant to this  
10          Part.

11          (5) Enter facilities for the purpose of conducting inspections, collecting  
12          samples, testing, and examining and copying records.

13          (6) Hold hearings on alleged violations of the provisions of this Part or of the  
14          rules and regulations adopted pursuant to this Part.

15          (7) Seek and obtain injunctive or other civil relief to restrain and prevent  
16          violations of this Part, rules and regulations adopted pursuant to this Part, and orders  
17          and rulings issued pursuant to this Part.

18          (8) Institute civil proceedings to enforce his orders or rulings, collect any  
19          fees, penalties, or costs due under this Part, or to otherwise enforce the provisions of  
20          this Part or rules and regulations adopted pursuant to this Part.

21          (9) Appoint and employ all personnel necessary for the efficient and proper  
22          administration of this Part.

23          §1058.5. Licensure requirements; authorization to obtain criminal history record  
24          information

25          A. The department shall develop an annual, nontransferable cannabis  
26          business license to be issued in the following categories:

27                 (1)(a) A cannabis commercial grower license, which shall authorize the  
28                 licensee to produce, transport, and sell approved cannabis seeds and cultivate,  
29                 handle, and transport cannabis in this state.

1           (b)(i) A cannabis commercial grower licensee may sell cannabis to a licensed  
2           cannabis processor or licensed cannabis retailer in this state, and may sell approved  
3           cannabis seeds to other licensed cannabis commercial growers and individuals  
4           holding a personal grower permit issued in accordance with this Part. A licensee  
5           shall not sell directly to an individual.

6           (ii) The department shall provide information that identifies sellers of  
7           cannabis seed to personal and commercial growers and processors.

8           (c) The sales authorized in Subparagraph (b) of this Paragraph shall be  
9           considered wholesale sales.

10           (d) Each cannabis commercial grower licensee shall complete a monthly  
11           yield and sales report to the department by the fifteenth of each month and provide  
12           reporting on the previous month. Each report shall include, at a minimum, the  
13           following information:

14           (i) Amount of cannabis harvested in pounds.

15           (ii) Amount of usable cannabis on hand.

16           (iii) Amount of cannabis and usable cannabis sold to processors in pounds.

17           (iv) Amount of usable cannabis sold to retailers in pounds.

18           (v) Total amount of wholesale sales in dollars.

19           (e)(i) The department shall have oversight and auditing responsibilities to  
20           ensure that all cannabis being grown in this state is accounted for. A licensed  
21           commercial grower shall only be subject to a penalty if a gross discrepancy exists  
22           and cannot be explained.

23           (ii) The penalty for fraudulent reporting of sales occurring within any two-  
24           year time period shall be revocation of the license.

25           (f) There shall be no limit on the amount of cannabis that a licensed cannabis  
26           commercial grower may grow pursuant to the provisions of this Part.

27           (g) The department may randomly inspect the operation, including business  
28           records and the cannabis crop, of any licensed cannabis commercial grower if any

1 duly authorized officer or employee of the department has reason to believe that a  
2 violation of this Part has occurred.

3 (h) The department may enter into a cooperative endeavor agreement with  
4 the Department of Agriculture and Forestry to ensure cannabis seed complies with  
5 the standards for seeds set by the Agricultural Chemistry and Seed Commission.

6 (2)(a) A cannabis processor license, which shall authorize the licensee to  
7 handle, process, and transport cannabis and cannabis products in this state.

8 (b) For purposes of this Paragraph, "process" means the converting of  
9 cannabis into cannabis products.

10 (c)(i) The department shall promulgate rules for the preparation of cannabis  
11 products in accordance with the State Food, Drug, and Cosmetic Law, R.S. 40:601  
12 et seq. The rules shall not be excessive or punitive in nature.

13 (ii) Any facility processing cannabis shall be subject to inspection by the  
14 department in accordance with the rules established pursuant to this Subparagraph  
15 or as provided in R.S. 40:631. The department may conduct such inspections once  
16 per year or upon reasonable belief that a violation of this Part has occurred. If  
17 deficiency is found, a written deficiency report shall be issued to the processor. The  
18 processor shall correct the deficiency within thirty days of receipt of the deficiency  
19 report or be subject to license suspension or revocation.

20 (d) A processor may sell cannabis products that it produces to a licensed  
21 cannabis retailer or any other licensed cannabis processor, and such sales shall be  
22 considered wholesale sales. A processor shall not sell directly to an individual.

23 (e) A licensed cannabis processor shall complete and submit to the  
24 department a monthly yield and sales report by the fifteenth of each month and  
25 provide reporting on the previous month. Each report shall include, at a minimum,  
26 the following information:

27 (i) Amount of cannabis purchased from cannabis commercial growers in  
28 pounds.



1           (ii) Amount of cannabis processed and the amount of cannabis waste in  
2           pounds.

3           (iii) Total amount of wholesale sales in dollars.

4           (f)(i) The department shall have oversight and auditing responsibilities to  
5           ensure that all cannabis being grown in this state is accounted for. A licensed  
6           processor shall only be subject to a penalty if a gross discrepancy exists and cannot  
7           be explained.

8           (ii) The penalty for fraudulent reporting of sales occurring within any two-  
9           year time period shall be revocation of the license.

10           (3)(a) A cannabis contract carrier license, which shall authorize the licensee  
11           to transport cannabis and cannabis products from a licensed cannabis commercial  
12           grower, licensed cannabis processor, or licensed cannabis retailer in this state to a  
13           licensed cannabis commercial grower, licensed cannabis processor, or licensed  
14           cannabis retailer in this state.

15           (b) All cannabis or cannabis products shall be transported in a locked  
16           container and clearly labeled "Cannabis or Cannabis Products" on the outside of the  
17           container.

18           B. No licensed cannabis commercial grower or cannabis processor shall be  
19           located in a "drug free zone" as defined in R.S. 17:405(A).

20           C. The number of cannabis business licenses or license categories that an  
21           applicant may apply for or receive shall not be limited; however, each application  
22           and each category shall require a separate application and fee. A cannabis  
23           commercial grower, cannabis processor, and cannabis contract carrier may share the  
24           same address or physical location, subject to restrictions set forth in administrative  
25           rules of the department.

26           D. As a condition of eligibility, the department shall require each applicant  
27           for a license provided for in this Section to do all of the following:

28           (1) Submit a full set of fingerprints in a form and manner prescribed by the  
29           department.

1           (2) Permit the department to request and obtain state and national criminal  
2           history record information on the applicant.

3           (3) Pay the reasonable costs to be incurred by the department in requesting  
4           and obtaining state and national criminal history record information on the applicant.

5           E. In accordance with the provisions and procedure prescribed by this  
6           Section, the department shall request and obtain state and national criminal history  
7           record information from the bureau and the FBI relative to any applicant for  
8           licensure whose fingerprints the department has obtained pursuant to this Section for  
9           the purpose of determining the applicant's suitability and eligibility for licensure.

10          F. Upon request by the department, and upon submission of an applicant's  
11          fingerprints and such other identifying information as may be required, the bureau  
12          shall survey its criminal history records and identification files and make a  
13          simultaneous request of the FBI for similar or related information from other  
14          jurisdictions. The bureau may charge the department a reasonable processing fee for  
15          conducting and reporting on any such search.

16          §1058.6. Suitability requirements

17          A. The department shall approve each application for a cannabis business  
18          license that meets the following criteria:

19               (1) The applicant is twenty-five years of age or older.

20               (2) The applicant is a legal resident of this state and shows proof of his  
21               residency. In the case of an applicant not applying as an individual, at least seventy-  
22               five percent of the applicant organization's total ownership or membership shall be  
23               comprised of persons who are Louisiana residents.

24               (3) The applicant shall be registered to conduct business in this state.

25               (4) If the applicant is not an individual, the applicant shall disclose all  
26               ownership or membership of the applicant organization.

27          B. Any applicant who, at the time of application, has had a felony conviction  
28          for a nonviolent offense in the last two years, has had any other type of felony  
29          conviction in the last five years, or is currently incarcerated or jailed shall not qualify

1 for a cannabis business license. This prohibition shall apply to all owners or  
2 members of an applicant organization not applying as an individual.

3 §1058.7. Fees

4 A. Each applicant and each licensee, respectively, shall pay an application  
5 fee and an annual license renewal fee to the department as required by the provisions  
6 of Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

7 B.(1) The application fee shall be payable to the department upon initial  
8 application.

9 (2) The license renewal fee shall be payable to the department annually after  
10 initial licensure.

11 §1058.8. Issuance of licenses to medical marijuana production facilities

12 Notwithstanding any provision of R.S. 40:1058.5 through 1058.7, the  
13 department shall issue a cannabis commercial grower license, cannabis processor  
14 license, and cannabis contract carrier license to each entity that holds a medical  
15 marijuana production license issued pursuant to R.S. 40:1046 without necessity of  
16 an application for the licenses. The department shall issue the licenses to the entity  
17 free of charge.

18 §1058.9. Personal cultivation permits

19 A.(1) The department shall develop an annual personal cultivation permit for  
20 cultivation and possession of cannabis plants by individuals for personal use.

21 (2) The permit shall authorize the permittee to cultivate and possess up to six  
22 cannabis plants for personal consumption.

23 (3) The permit shall not authorize the permittee to sell any part of a cannabis  
24 plant to any person.

25 (4) The department shall charge an annual fee for the permit in the amount  
26 authorized in Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes  
27 of 1950.

28 B. An individual shall be twenty-one years of age or older to be eligible for  
29 a personal cultivation permit.

1           C. Each application for a personal cultivation permit shall be made on a form  
2           and in a manner prescribed by the secretary that, at a minimum, shall include proof  
3           of age, proof of residence, and a description of the location and security plan for the  
4           proposed cannabis grow site.

5           D. Each housing unit shall have no more than twelve cannabis plants  
6           regardless of how many persons twenty-one years of age or older reside in the  
7           housing unit.

8           E. Personal cultivation of cannabis shall only occur in an enclosure that is  
9           screened from public view and is secure so that access is limited to the cultivator and  
10          persons twenty-one years of age or older who have permission from the cultivator.

11          §1058.10. Therapeutic marijuana

12          Nothing in this Part shall be construed to limit any privileges or rights of a  
13          patient to whom therapeutic marijuana has been recommended or of a therapeutic  
14          marijuana production facility as provided for in R.S. 40:1046.

15          Section 4. R.S. 40:966(B)(2)(introductory paragraph) and (D)(1) are hereby  
16          amended and reenacted to read as follows:

17          §966. Penalty for distribution or possession with intent to distribute narcotic drugs  
18          listed in Schedule I; possession of ~~marijuana~~, synthetic cannabinoids; and  
19          heroin

20    \*           \*           \*

21          B. Violations of Subsection A. Any person who violates Subsection A of  
22          this Section with respect to:

23    \*           \*           \*

24          (2) A substance classified in Schedule I which is ~~marijuana,~~  
25          ~~tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols,~~ or a  
26          synthetic ~~cannabinoids~~ cannabinoid for an amount of:

27    \*           \*           \*

28          D. If a person knowingly or intentionally possesses a controlled substance  
29          as classified in Schedule I, unless such substance was obtained directly or pursuant

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1 to a valid prescription or order from a practitioner, as provided in R.S. 40:978, while  
2 acting in the course of his professional practice, where the amount of the controlled  
3 substance is equal to or above the following weights, it shall be considered a  
4 violation of Subsection A of this Section:

5 (1) For ~~marijuana, tetrahydrocannabinol,~~ synthetic cannabinoids; or chemical  
6 derivatives thereof, two and one-half pounds.

7 \* \* \*

8 Section 5. R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F) are hereby repealed  
9 in their entirety.

10 Section 6.(A) The commissioner of alcohol and tobacco control shall solicit broad  
11 public input and participation in developing the framework for regulation of cannabis  
12 retailers provided for in Section 2 of this Act.

13 (B) The commissioner of alcohol and tobacco control shall initiate the promulgation  
14 of all rules required by the provisions of Section 2 of this Act through the notice of intent  
15 process provided for in R.S. 49:953(A) prior to December 1, 2021.

16 (C) The commissioner of alcohol and tobacco control shall take no action to enforce  
17 the provisions of Section 2 of this Act prior to the sixtieth day after the date of adoption of  
18 the administrative rules required by this Section.

19 Section 7.(A) The secretary of the Louisiana Department of Health shall solicit  
20 broad public input and participation in developing the framework for regulation of  
21 cultivators, commercial growers, seed producers, contract carriers, and processors of  
22 cannabis and cannabis products provided for in Section 3 of this Act.

23 (B) The secretary of the Louisiana Department of Health shall initiate the  
24 promulgation of all rules required by the provisions of Section 3 of this Act through the  
25 notice of intent process provided for in R.S. 49:953(A) prior to December 1, 2021.

26 (C) The secretary of the Louisiana Department of Health shall take no action to  
27 enforce the provisions of Section 3 of this Act prior to the sixtieth day after the date of  
28 adoption of the administrative rules required by this Section.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Section 8. This Section and Sections 1, 2, 3, 6, 7, and 9 of this Act shall become  
2 effective on August 1, 2021.

3 Section 9. Sections 4 and 5 of this Act shall become effective if, in an election  
4 conducted on November 8, 2022, a majority of the electors voting on the proposition to  
5 legalize marijuana approve the proposition.

### 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 524 Original

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 and the La. Department of Health.

#### **Ballot Proposition to Legalize Marijuana**

Proposed law provides that at the statewide election occurring on Nov. 8, 2022, a proposition shall appear on the ballot in every parish to determine whether the possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or chemical derivatives thereof shall be legal for persons 21 years of age or older. Provides that the ballot for the election shall state as follows:

"PROPOSITION ON LEGALIZATION OF MARIJUANA

Shall persons twenty-one years of age or older be permitted to possess, purchase, sell, and produce marijuana, tetrahydrocannabinols, or chemical derivatives thereof which are regulated by the State of Louisiana?"

Proposed law provides that if a majority of the qualified electors of the state voting on the proposition approve the proposition, then the possession, distribution, or dispensing of marijuana, tetrahydrocannabinols, or chemical derivatives thereof by persons 21 years of age or older shall no longer be a criminal offense.

Proposed law provides that if a majority of the electors in any parish voting on the proposition do not approve the proposition, then the state shall not issue any license for production, retail sale, processing, or personal cultivation of any marijuana or cannabis product in that parish as otherwise authorized in proposed law.

#### **Repeal of Laws Criminalizing Marijuana**

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.

Proposed law makes the effectiveness of the repeal of these laws contingent upon a majority of the electors who vote on the proposition to legalize marijuana in the Nov. 8, 2022, election approving the proposition.

### **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 La. Department of Health (LDH) 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 LDH in accordance with proposed law.

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

Proposed law requires LDH 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

Proposed law provides for requirements, authorizations, restrictions, and prohibitions associated with each type of license to be issued by LDH. 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 LDH.

Proposed law requires that, notwithstanding any other provision of proposed law, LDH 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 LDH to develop an annual personal cultivation permit for cultivation and possession of cannabis plants by individuals for personal use. Provides that the permit shall authorize the permittee to cultivate and possess up to six cannabis plants for personal consumption. Stipulates that the permit shall not authorize the permittee 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 permit.

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

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 permit and adopt rules and regulations pertaining to the permit. 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 permit in accordance with the provisions of proposed law.

Proposed law requires that an applicant for a retailer permit 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 permit 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 permit.

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 permits. 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 permit.
- (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 secretary of LDH 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 secretary 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 secretary of LDH 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.

(Amends R.S. 40:966(B)(2)(intro. para.) and (D)(1); Adds R.S. 14:93.21-93.25, R.S. 26:941-948, R.S. 40:989.4 and 1058.1-1058.10; Repeals R.S. 40:964(Schedule I)(C)(19) and 966(C)(2) and (F))