

2022 Regular Session

HOUSE BILL NO. 553

BY REPRESENTATIVE MCKNIGHT

MEDICAL MARIJUANA: Provides relative to suitability requirements for persons associated with medical marijuana production

1 AN ACT

2 To amend and reenact R.S. 40:1047, relative to suitability requirements for persons  
3 associated with production of therapeutic marijuana; to require permitting by the  
4 state of certain personnel of contractors of licensed producers of therapeutic  
5 marijuana; to authorize the Department of Agriculture and Forestry to obtain  
6 criminal history record information on applicants for permits; to provide for issuance  
7 and denial of permits based upon results of criminal history record checks; to provide  
8 for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1047 is hereby amended and reenacted to read as follows:

11 §1047. ~~Louisiana Department of Agriculture and Forestry Permits relating to~~  
12 production of therapeutic marijuana; contractors of licensed producers;  
13 permit application requirements; authorization for Department of Agriculture  
14 and Forestry to obtain criminal history record information

15 A. As used in this Section, the following terms ~~shall~~ have the ~~following~~  
16 meaning ascribed in this Subsection:

17 (1) ~~"Applicant" means a natural person, a corporation, limited liability~~  
18 ~~company, partnership, joint stock association, sole proprietorship, joint venture,~~  
19 ~~business association, cooperative association, professional corporation or any other~~  
20 ~~legal entity or organization through which business is conducted.~~

1           ~~(2) "Bureau" means the Louisiana Bureau of Criminal Identification and~~  
2 ~~Information of the office of state police within the Department of Public Safety and~~  
3 ~~Corrections.~~

4           (1) "Contractor" means any person, partnership, joint venture, limited  
5 liability company, corporation, association, joint stock association, sole  
6 proprietorship, trust, other business entity, or juridical person whether incorporated  
7 or not selected by either the Louisiana State University Agricultural Center or the  
8 Southern University Agricultural Center through a competitive bid process to  
9 cultivate, extract, process, produce, and transport therapeutic marijuana.

10           ~~(3)~~ (2) "Criminal history record information" means information collected  
11 by state and federal criminal justice agencies on individuals consisting of identifiable  
12 descriptions and notations of arrests, detentions, indictments, bills of information,  
13 or any formal criminal charges, and any disposition arising therefrom, including  
14 sentencing, criminal correctional supervision, and release. It shall not include  
15 intelligence information gathered for investigatory purposes or any identification  
16 information which does not indicate involvement of the individual in the criminal  
17 justice system.

18           ~~(4)~~ (3) "Department" means Louisiana Department of Agriculture and  
19 Forestry.

20           ~~(5) "FBI" means the Federal Bureau of Investigation of the United States~~  
21 ~~Department of Justice.~~

22           ~~(6) "Licensure" means any license or permit that the department is~~  
23 ~~authorized to issue for the production of recommended therapeutic marijuana and the~~  
24 ~~facility producing therapeutic marijuana.~~

25           (4) "Division" means the division of the office of state police which is  
26 assigned by the Department of Public Safety and Corrections to investigate and  
27 enforce the provisions of this Section.

28           (5) "Exercise significant influence" means management or decision-making  
29 authority, operational control, or financial control.

1           (6) "Permit" means a permit issued in accordance with the provisions of this  
2           Section.

3           (7) "Therapeutic marijuana" or "medical marijuana" means raw or crude  
4           marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols  
5           regardless of form recommended or administered to a patient, which is cultivated,  
6           extracted, processed, and produced as authorized in this Part and which meets or  
7           exceeds all standards required by this Part.

8           B. The following persons shall be required to obtain a permit from the  
9           department:

10           (1) Any person employed in the operation of a contractor's therapeutic  
11           marijuana production or research facility and whose employment with a contractor  
12           requires or authorizes access to limited access areas of the facility.

13           (2) Any person who serves as an officer, director, or manager of a contractor.

14           (3) Any person who owns or controls, directly or indirectly, five percent or  
15           more of ownership, income, profit, or economic interest in a contractor.

16           (4) A person who has the ability or capacity to exercise significant influence  
17           over a contractor.

18           ~~B. In addition to any other requirements established by department rules, the~~  
19           ~~department shall require an applicant, as a condition of eligibility for licensure:~~

20           C. A person who is required to obtain and applies for a permit in accordance  
21           with this Section shall do all of the following:

22           ~~(1) To submit~~ Submit a full set of fingerprints; ~~and a permit application in~~  
23           a form and manner prescribed by the ~~department~~ division.

24           ~~To permit the department~~ Authorize the division to request and obtain  
25           state and national criminal history record information on the applicant.

26           ~~To pay the reasonable costs to be incurred by the department in~~  
27           ~~requesting and obtaining state and national criminal history record information on~~  
28           ~~the applicant~~ Pay the fee charged by the division to process fingerprints and obtain  
29           criminal history record information on the applicant.

1           ~~C. In accordance with the provisions and procedure prescribed by this~~  
2           ~~Section, the department~~

3           D. The division shall request and obtain state and national criminal history  
4           record information ~~from the bureau and the FBI~~ relative to any applicant for  
5           licensure whose fingerprints the ~~department~~ division has obtained pursuant to this  
6           Section for the purpose of determining the applicant's suitability and eligibility for  
7           licensure a permit.

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

14          E. Any ~~and all~~ state or national criminal history record information obtained  
15          by the ~~department from the bureau or FBI~~ which is not already a matter of public  
16          record division shall be deemed nonpublic and confidential information restricted to  
17          the exclusive use by the ~~department~~ division in evaluating the applicant's eligibility  
18          or disqualification for ~~licensure~~ a permit. No ~~such~~ information or records related  
19          thereto shall, except with the written consent of the ~~applicant~~ person holding or  
20          applying for a permit or by order of a court of competent jurisdiction, be released or  
21          otherwise disclosed by the ~~department~~ division to any other person or agency. Any  
22          criminal history record information obtained by the division shall be made available  
23          to the applicant upon written request by the applicant.

24          F.(1) The division shall provide the criminal history record information of  
25          each applicant to the department. The department shall issue a permit to an applicant  
26          unless he has been convicted of any of the following offenses in any jurisdiction  
27          when the conviction occurred either within ten years of the permit application date  
28          or when less than ten years have elapsed between the application date and the date

1 of successful completion or service of any sentence, deferred adjudication, or  
2 probation or parole period:

3 (a) Any offense punishable by imprisonment for more than one year.

4 (b) Theft or any crime involving false statements or declarations.

5 (c) A crime of violence as defined by R.S.14:2(B).

6 (d) Any offense involving Schedule I narcotics, except for possession of  
7 marijuana, tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S.  
8 40:966, where the offender was not imprisoned for more than one year. This  
9 exception shall not apply to a substance classified in Schedule I that is a synthetic  
10 cannabinoid.

11 (2)(a) Each permittee approved according to this Section shall file a permit  
12 renewal application with the department at least thirty days prior to the expiration  
13 date of his permit.

14 (b) Nothing in this Subsection shall be construed to require a permittee to  
15 resubmit a criminal background check upon permit renewal; however, each permittee  
16 shall notify the contractor and the department if, while he holds a permit, he is  
17 arrested for, or is issued a summons, citation, or charge relating to, any offense  
18 enumerated in Paragraph (1) of this Subsection.

19 G. Notwithstanding the provisions of Subsection F of this Section, the  
20 department may deny, suspend, or revoke any permit issued pursuant to this Section,  
21 subject to the applicable provisions of the Administrative Procedure Act, when a  
22 permit holder no longer meets the requirements of this Section.

23 Section 2. This Act shall become effective upon signature by the governor or, if not  
24 signed by the governor, upon expiration of the time for bills to become law without signature  
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27 effective on the day following such approval.

## 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 553 Original

2022 Regular Session

McKnight

**Abstract:** Provides for suitability requirements, based upon criminal history record information, for contractors of licensed producers of medical marijuana.

Present law provides for a process by which the La. Dept. of Agriculture and Forestry (LDAF) determines the suitability of applicants for licensure as a medical marijuana production facility.

Proposed law revises present law to provide instead for a process by which LDAF determines the suitability, based upon criminal history record information, of certain persons associated with contractors of licensed producers of medical marijuana.

Proposed law retains certain provisions of present law authorizing LDAF to obtain the criminal history record information of persons involved with production of medical marijuana.

Proposed law provides that LDAF shall issue a permit to an applicant unless he has been convicted of any of the following offenses in any jurisdiction when the conviction occurred either within ten years of the permit application date or when less than ten years have elapsed between the application date and the date of successful completion or service of any sentence, deferred adjudication, or probation or parole period:

- (1) Any offense punishable by imprisonment for more than one year.
- (2) Theft or any crime involving false statements or declarations.
- (3) A crime of violence as defined by R.S.14:2(B).
- (4) Any offense involving Schedule I narcotics, except for possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, where the offender was not imprisoned for more than one year. Proposed law provides, however, that this exception shall not apply to a substance classified in Schedule I that is a synthetic cannabinoid.

Proposed law stipulates that nothing therein shall be construed to require a permittee to resubmit a criminal background check upon permit renewal; requires, however, that each permittee notify the contractor and LDAF if, while he holds a permit, he is arrested for, or is issued a summons, citation, or charge relating to, any offense enumerated in proposed law.

Proposed law authorizes LDAF to deny, suspend, or revoke any permit issued pursuant to proposed law when a permit holder no longer meets the requirements of proposed law.

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

(Amends R.S. 40:1047)