

By Senator Farmer

34-00319A-18

2018726\_\_

1                   A bill to be entitled  
2       An act relating to smoking marijuana for medical use;  
3       amending s. 381.986, F.S.; redefining terms to  
4       authorize the production, processing, transportation,  
5       sale, possession, and administration of marijuana in a  
6       form for smoking for medical use; removing the  
7       requirement that a marijuana delivery device be  
8       dispensed from a medical marijuana treatment center;  
9       deleting a provision requiring specified parties to be  
10      able to access the medical marijuana use registry to  
11      verify the authorization of a qualified patient or a  
12      caregiver to possess a marijuana delivery device;  
13      removing the requirement that a caregiver be in  
14      immediate possession of his or her medical marijuana  
15      use registry identification card when in possession of  
16      a marijuana delivery device; deleting provisions  
17      prohibiting a medical marijuana treatment center from  
18      contracting for certain services related to marijuana  
19      delivery devices; conforming provisions to changes  
20      made by the act; removing a requirement that at least  
21      two persons be in a vehicle transporting marijuana  
22      delivery devices; removing the requirement that safety  
23      and security training be provided to employees  
24      transporting or delivering marijuana delivery devices;  
25      revising grounds for a criminal penalty to remove a  
26      requirement that a qualified patient or caregiver  
27      present his or her medical marijuana use registry  
28      identification card when in possession of a marijuana  
29      delivery device under certain circumstances; providing

34-00319A-18

2018726\_\_

30 an effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Paragraphs (g), (j), (k), and (n) of subsection  
35 (1), paragraph (a) of subsection (5), paragraph (g) of  
36 subsection (6), paragraphs (e) and (g) of subsection (8), and  
37 paragraph (e) of subsection (12) of section 381.986, Florida  
38 Statutes, are amended to read:

39 381.986 Medical use of marijuana.—

40 (1) DEFINITIONS.—As used in this section, the term:

41 (g) "Marijuana delivery device" means an object in the  
42 possession of a caregiver or a qualified patient which is used,  
43 intended for use, or designed for use in preparing, storing,  
44 ingesting, burning, or inhaling marijuana, or otherwise  
45 introducing marijuana into the human body,~~and which is~~  
46 ~~dispensed from a medical marijuana treatment center for medical~~  
47 ~~use by a qualified patient.~~ The term includes, but is not  
48 limited to, a cartridge, a grinder, a pipe, rolling papers, a  
49 syringe, or a vaporizer.

50 (j) "Medical use" means the acquisition, possession, use,  
51 delivery, transfer, or administration of marijuana authorized by  
52 a physician certification.

53 1. The term includes possession, use, or administration of  
54 marijuana in a form for smoking.

55 2. The term does not include:

56 a.1. Possession, use, or administration of marijuana that  
57 was not purchased or acquired from a medical marijuana treatment  
58 center.

34-00319A-18

2018726\_\_

59 ~~b.2.~~ Possession, use, or administration of marijuana ~~in a~~  
60 ~~form for smoking,~~ in the form of commercially produced food  
61 items other than edibles, ~~or of marijuana seeds or flower,~~  
62 ~~except for flower in a sealed, tamper-proof receptacle for~~  
63 ~~vaping.~~

64 ~~c.3.~~ Use or administration of any form or amount of  
65 marijuana in a manner that is inconsistent with the qualified  
66 physician's directions or physician certification.

67 ~~d.4.~~ Transfer of marijuana to a person other than the  
68 qualified patient for whom it was authorized or the qualified  
69 patient's caregiver on behalf of the qualified patient.

70 ~~e.5.~~ Use or administration of marijuana in the following  
71 locations:

72 ~~(I)a.~~ On any form of public transportation, except for low-  
73 THC cannabis.

74 ~~(II)b.~~ In any public place, except for low-THC cannabis.

75 ~~(III)e.~~ In a qualified patient's place of employment,  
76 except when permitted by his or her employer.

77 ~~(IV)d.~~ In a state correctional institution, as defined in  
78 s. 944.02, or a correctional institution, as defined in s.  
79 944.241.

80 ~~(V)e.~~ On the grounds of a preschool, primary school, or  
81 secondary school, except as provided in s. 1006.062.

82 ~~(VI)f.~~ In a school bus, a vehicle, an aircraft, or a  
83 motorboat, except for low-THC cannabis.

84 (k) "Physician certification" means a qualified physician's  
85 authorization for a qualified patient to receive marijuana ~~and a~~  
86 ~~marijuana delivery device~~ from a medical marijuana treatment  
87 center or marijuana delivery devices needed by the qualified

34-00319A-18

2018726\_\_

88 patient for medical use.

89 (n) "Smoking" means the inhalation of the smoke of burning  
90 marijuana contained or held in a marijuana delivery device ~~or~~  
91 ~~igniting a substance and inhaling the smoke.~~

92 (5) MEDICAL MARIJUANA USE REGISTRY.—

93 (a) The department shall create and maintain a secure,  
94 electronic, and online medical marijuana use registry for  
95 physicians, patients, and caregivers as provided under this  
96 section. The medical marijuana use registry must be accessible  
97 to law enforcement agencies, qualified physicians, and medical  
98 marijuana treatment centers to verify the authorization of a  
99 qualified patient or a caregiver to possess marijuana ~~or a~~  
100 ~~marijuana delivery device~~ and record the marijuana or marijuana  
101 delivery device dispensed. The medical marijuana use registry  
102 must also be accessible to practitioners licensed to prescribe  
103 prescription drugs to ensure proper care for patients before  
104 medications that may interact with the medical use of marijuana  
105 are prescribed. The medical marijuana use registry must prevent  
106 an active registration of a qualified patient by multiple  
107 physicians.

108 (6) CAREGIVERS.—

109 (g) A caregiver must be in immediate possession of his or  
110 her medical marijuana use registry identification card at all  
111 times when in possession of marijuana ~~or a marijuana delivery~~  
112 ~~device~~ and must present his or her medical marijuana use  
113 registry identification card upon the request of a law  
114 enforcement officer.

115 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

116 (e) A licensed medical marijuana treatment center shall

34-00319A-18

2018726\_\_

117 cultivate, process, transport, and dispense marijuana for  
118 medical use. A licensed medical marijuana treatment center may  
119 not contract for services directly related to the cultivation,  
120 processing, and dispensing of marijuana ~~or marijuana delivery~~  
121 ~~devices~~, except that a medical marijuana treatment center  
122 licensed pursuant to subparagraph (a)1. may contract with a  
123 single entity for the cultivation, processing, transporting, and  
124 dispensing of marijuana ~~and marijuana delivery devices~~. A  
125 licensed medical marijuana treatment center must, at all times,  
126 maintain compliance with the criteria demonstrated and  
127 representations made in the initial application and the criteria  
128 established in this subsection. Upon request, the department may  
129 grant a medical marijuana treatment center a variance from the  
130 representations made in the initial application. Consideration  
131 of such a request shall be based upon the individual facts and  
132 circumstances surrounding the request. A variance may not be  
133 granted unless the requesting medical marijuana treatment center  
134 can demonstrate to the department that it has a proposed  
135 alternative to the specific representation made in its  
136 application which fulfills the same or a similar purpose as the  
137 specific representation in a way that the department can  
138 reasonably determine will not be a lower standard than the  
139 specific representation in the application. A variance may not  
140 be granted from the requirements in subparagraph 2. and  
141 subparagraphs (b)1. and 2.

142 1. A licensed medical marijuana treatment center may  
143 transfer ownership to an individual or entity who meets the  
144 requirements of this section. A publicly traded corporation or  
145 publicly traded company that meets the requirements of this

34-00319A-18

2018726\_\_

146 section is not precluded from ownership of a medical marijuana  
147 treatment center. To accommodate a change in ownership:

148 a. The licensed medical marijuana treatment center shall  
149 notify the department in writing at least 60 days before the  
150 anticipated date of the change of ownership.

151 b. The individual or entity applying for initial licensure  
152 due to a change of ownership must submit an application that  
153 must be received by the department at least 60 days before the  
154 date of change of ownership.

155 c. Upon receipt of an application for a license, the  
156 department shall examine the application and, within 30 days  
157 after receipt, notify the applicant in writing of any apparent  
158 errors or omissions and request any additional information  
159 required.

160 d. Requested information omitted from an application for  
161 licensure must be filed with the department within 21 days after  
162 the department's request for omitted information or the  
163 application shall be deemed incomplete and shall be withdrawn  
164 from further consideration and the fees shall be forfeited.

165  
166 Within 30 days after the receipt of a complete application, the  
167 department shall approve or deny the application.

168 2. A medical marijuana treatment center, and any individual  
169 or entity who directly or indirectly owns, controls, or holds  
170 with power to vote 5 percent or more of the voting shares of a  
171 medical marijuana treatment center, may not acquire direct or  
172 indirect ownership or control of any voting shares or other form  
173 of ownership of any other medical marijuana treatment center.

174 3. A medical marijuana treatment center may not enter into

34-00319A-18

2018726\_\_

175 any form of profit-sharing arrangement with the property owner  
176 or lessor of any of its facilities where cultivation,  
177 processing, storing, or dispensing of marijuana and marijuana  
178 delivery devices occurs.

179 4. All employees of a medical marijuana treatment center  
180 must be 21 years of age or older and have passed a background  
181 screening pursuant to subsection (9).

182 5. Each medical marijuana treatment center must adopt and  
183 enforce policies and procedures to ensure employees and  
184 volunteers receive training on the legal requirements to  
185 dispense marijuana to qualified patients.

186 6. When growing marijuana, a medical marijuana treatment  
187 center:

188 a. May use pesticides determined by the department, after  
189 consultation with the Department of Agriculture and Consumer  
190 Services, to be safely applied to plants intended for human  
191 consumption, but may not use pesticides designated as  
192 restricted-use pesticides pursuant to s. 487.042.

193 b. Must grow marijuana within an enclosed structure and in  
194 a room separate from any other plant.

195 c. Must inspect seeds and growing plants for plant pests  
196 that endanger or threaten the horticultural and agricultural  
197 interests of the state in accordance with chapter 581 and any  
198 rules adopted thereunder.

199 d. Must perform fumigation or treatment of plants, or  
200 remove and destroy infested or infected plants, in accordance  
201 with chapter 581 and any rules adopted thereunder.

202 7. Each medical marijuana treatment center must produce and  
203 make available for purchase at least one low-THC cannabis

34-00319A-18

2018726\_\_

204 product.

205 8. A medical marijuana treatment center that produces  
206 edibles must hold a permit to operate as a food establishment  
207 pursuant to chapter 500, the Florida Food Safety Act, and must  
208 comply with all the requirements for food establishments  
209 pursuant to chapter 500 and any rules adopted thereunder.  
210 Edibles may not contain more than 200 milligrams of  
211 tetrahydrocannabinol, and a single serving portion of an edible  
212 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles  
213 may have a potency variance of no greater than 15 percent.  
214 Edibles may not be attractive to children; be manufactured in  
215 the shape of humans, cartoons, or animals; be manufactured in a  
216 form that bears any reasonable resemblance to products available  
217 for consumption as commercially available candy; or contain any  
218 color additives. To discourage consumption of edibles by  
219 children, the department shall determine by rule any shapes,  
220 forms, and ingredients allowed and prohibited for edibles.  
221 Medical marijuana treatment centers may not begin processing or  
222 dispensing edibles until after the effective date of the rule.  
223 The department shall also adopt sanitation rules providing the  
224 standards and requirements for the storage, display, or  
225 dispensing of edibles.

226 9. Within 12 months after licensure, a medical marijuana  
227 treatment center must demonstrate to the department that all of  
228 its processing facilities have passed a Food Safety Good  
229 Manufacturing Practices, such as Global Food Safety Initiative  
230 or equivalent, inspection by a nationally accredited certifying  
231 body. A medical marijuana treatment center must immediately stop  
232 processing at any facility which fails to pass this inspection

34-00319A-18

2018726\_\_

233 until it demonstrates to the department that such facility has  
234 met this requirement.

235 10. When processing marijuana, a medical marijuana  
236 treatment center must:

237 a. Process the marijuana within an enclosed structure and  
238 in a room separate from other plants or products.

239 b. Comply with department rules when processing marijuana  
240 with hydrocarbon solvents or other solvents or gases exhibiting  
241 potential toxicity to humans. The department shall determine by  
242 rule the requirements for medical marijuana treatment centers to  
243 use such solvents or gases exhibiting potential toxicity to  
244 humans.

245 c. Comply with federal and state laws and regulations and  
246 department rules for solid and liquid wastes. The department  
247 shall determine by rule procedures for the storage, handling,  
248 transportation, management, and disposal of solid and liquid  
249 waste generated during marijuana production and processing. The  
250 Department of Environmental Protection shall assist the  
251 department in developing such rules.

252 d. Test the processed marijuana using a medical marijuana  
253 testing laboratory before it is dispensed. Results must be  
254 verified and signed by two medical marijuana treatment center  
255 employees. Before dispensing, the medical marijuana treatment  
256 center must determine that the test results indicate that low-  
257 THC cannabis meets the definition of low-THC cannabis, the  
258 concentration of tetrahydrocannabinol meets the potency  
259 requirements of this section, the labeling of the concentration  
260 of tetrahydrocannabinol and cannabidiol is accurate, and all  
261 marijuana is safe for human consumption and free from

34-00319A-18

2018726\_\_

262 contaminants that are unsafe for human consumption. The  
263 department shall determine by rule which contaminants must be  
264 tested for and the maximum levels of each contaminant which are  
265 safe for human consumption. The Department of Agriculture and  
266 Consumer Services shall assist the department in developing the  
267 testing requirements for contaminants that are unsafe for human  
268 consumption in edibles. The department shall also determine by  
269 rule the procedures for the treatment of marijuana that fails to  
270 meet the testing requirements of this section, s. 381.988, or  
271 department rule. The department may select a random sample from  
272 edibles available for purchase in a dispensing facility which  
273 shall be tested by the department to determine that the edible  
274 meets the potency requirements of this section, is safe for  
275 human consumption, and the labeling of the tetrahydrocannabinol  
276 and cannabidiol concentration is accurate. A medical marijuana  
277 treatment center may not require payment from the department for  
278 the sample. A medical marijuana treatment center must recall  
279 edibles, including all edibles made from the same batch of  
280 marijuana, which fail to meet the potency requirements of this  
281 section, which are unsafe for human consumption, or for which  
282 the labeling of the tetrahydrocannabinol and cannabidiol  
283 concentration is inaccurate. The medical marijuana treatment  
284 center must retain records of all testing and samples of each  
285 homogenous batch of marijuana for at least 9 months. The medical  
286 marijuana treatment center must contract with a marijuana  
287 testing laboratory to perform audits on the medical marijuana  
288 treatment center's standard operating procedures, testing  
289 records, and samples and provide the results to the department  
290 to confirm that the marijuana or low-THC cannabis meets the

34-00319A-18

2018726\_\_

291 requirements of this section and that the marijuana or low-THC  
292 cannabis is safe for human consumption. A medical marijuana  
293 treatment center shall reserve two processed samples from each  
294 batch and retain such samples for at least 9 months for the  
295 purpose of such audits. A medical marijuana treatment center may  
296 use a laboratory that has not been certified by the department  
297 under s. 381.988 until such time as at least one laboratory  
298 holds the required certification, but in no event later than  
299 July 1, 2018.

300 e. Package the marijuana in compliance with the United  
301 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.  
302 1471 et seq.

303 f. Package the marijuana in a receptacle that has a firmly  
304 affixed and legible label stating the following information:

305 (I) The marijuana or low-THC cannabis meets the  
306 requirements of sub-subparagraph d.

307 (II) The name of the medical marijuana treatment center  
308 from which the marijuana originates.

309 (III) The batch number and harvest number from which the  
310 marijuana originates and the date dispensed.

311 (IV) The name of the physician who issued the physician  
312 certification.

313 (V) The name of the patient.

314 (VI) The product name, if applicable, and dosage form,  
315 including concentration of tetrahydrocannabinol and cannabidiol.  
316 The product name may not contain wording commonly associated  
317 with products marketed by or to children.

318 (VII) The recommended dose.

319 (VIII) A warning that it is illegal to transfer medical

34-00319A-18

2018726\_\_

320 marijuana to another person.

321 (IX) A marijuana universal symbol developed by the  
322 department.

323 11. The medical marijuana treatment center shall include in  
324 each package a patient package insert with information on the  
325 specific product dispensed related to:

- 326 a. Clinical pharmacology.
- 327 b. Indications and use.
- 328 c. Dosage and administration.
- 329 d. Dosage forms and strengths.
- 330 e. Contraindications.
- 331 f. Warnings and precautions.
- 332 g. Adverse reactions.

333 12. Each edible shall be individually sealed in plain,  
334 opaque wrapping marked only with the marijuana universal symbol.  
335 Where practical, each edible shall be marked with the marijuana  
336 universal symbol. In addition to the packaging and labeling  
337 requirements in subparagraphs 10. and 11., edible receptacles  
338 must be plain, opaque, and white without depictions of the  
339 product or images other than the medical marijuana treatment  
340 center's department-approved logo and the marijuana universal  
341 symbol. The receptacle must also include a list all of the  
342 edible's ingredients, storage instructions, an expiration date,  
343 a legible and prominent warning to keep away from children and  
344 pets, and a warning that the edible has not been produced or  
345 inspected pursuant to federal food safety laws.

346 13. When dispensing marijuana or a marijuana delivery  
347 device, a medical marijuana treatment center:

- 348 a. May dispense any active, valid order for low-THC

34-00319A-18

2018726\_\_

349 cannabis, medical cannabis and cannabis delivery devices issued  
350 pursuant to former s. 381.986, Florida Statutes 2016, which was  
351 entered into the medical marijuana use registry before July 1,  
352 2017.

353 b. May not dispense more than a 70-day supply of marijuana  
354 to a qualified patient or caregiver.

355 c. Must have the medical marijuana treatment center's  
356 employee who dispenses the marijuana or a marijuana delivery  
357 device enter into the medical marijuana use registry his or her  
358 name or unique employee identifier.

359 d. Must verify that the qualified patient and the  
360 caregiver, if applicable, each have an active registration in  
361 the medical marijuana use registry and an active and valid  
362 medical marijuana use registry identification card, the amount  
363 and type of marijuana dispensed matches the physician  
364 certification in the medical marijuana use registry for that  
365 qualified patient, and the physician certification has not  
366 already been filled.

367 e. May not dispense marijuana to a qualified patient who is  
368 younger than 18 years of age. If the qualified patient is  
369 younger than 18 years of age, marijuana may only be dispensed to  
370 the qualified patient's caregiver.

371 f. May not dispense or sell any other type of cannabis,  
372 alcohol, or illicit drug-related product, ~~including pipes,~~  
373 ~~bongs, or wrapping papers,~~ other than a marijuana delivery  
374 device required for the medical use of marijuana as ~~and which is~~  
375 specified in a physician certification.

376 g. Must, upon dispensing the marijuana or marijuana  
377 delivery device, record in the registry the date, time,

34-00319A-18

2018726\_\_

378 quantity, and form of marijuana dispensed; the type of marijuana  
379 delivery device dispensed; and the name and medical marijuana  
380 use registry identification number of the qualified patient or  
381 caregiver to whom the marijuana delivery device was dispensed.

382 h. Must ensure that patient records are not visible to  
383 anyone other than the qualified patient, his or her caregiver,  
384 and authorized medical marijuana treatment center employees.

385 (g) To ensure the safe transport of marijuana ~~and marijuana~~  
386 ~~delivery devices~~ to medical marijuana treatment centers,  
387 marijuana testing laboratories, or qualified patients, a medical  
388 marijuana treatment center must:

389 1. Maintain a marijuana transportation manifest in any  
390 vehicle transporting marijuana. The marijuana transportation  
391 manifest must be generated from a medical marijuana treatment  
392 center's seed-to-sale tracking system and include the:

393 a. Departure date and approximate time of departure.

394 b. Name, location address, and license number of the  
395 originating medical marijuana treatment center.

396 c. Name and address of the recipient of the delivery.

397 d. Quantity and form of any marijuana or marijuana delivery  
398 device being transported.

399 e. Arrival date and estimated time of arrival.

400 f. Delivery vehicle make and model and license plate  
401 number.

402 g. Name and signature of the medical marijuana treatment  
403 center employees delivering the product.

404 (I) A copy of the marijuana transportation manifest must be  
405 provided to each individual, medical marijuana treatment center,  
406 or marijuana testing laboratory that receives a delivery. The

34-00319A-18

2018726\_\_

407 individual, or a representative of the center or laboratory,  
408 must sign a copy of the marijuana transportation manifest  
409 acknowledging receipt.

410 (II) An individual transporting marijuana or a marijuana  
411 delivery device must present a copy of the relevant marijuana  
412 transportation manifest and his or her employee identification  
413 card to a law enforcement officer upon request.

414 (III) Medical marijuana treatment centers and marijuana  
415 testing laboratories must retain copies of all marijuana  
416 transportation manifests for at least 3 years.

417 2. Ensure only vehicles in good working order are used to  
418 transport marijuana.

419 3. Lock marijuana and marijuana delivery devices in a  
420 separate compartment or container within the vehicle.

421 4. Require employees to have possession of their employee  
422 identification card at all times when transporting marijuana or  
423 marijuana delivery devices.

424 5. Require at least two persons to be in a vehicle  
425 transporting marijuana ~~or marijuana delivery devices~~, and  
426 require at least one person to remain in the vehicle while the  
427 marijuana ~~or marijuana delivery device~~ is being delivered.

428 6. Provide specific safety and security training to  
429 employees transporting or delivering marijuana ~~and marijuana~~  
430 ~~delivery devices~~.

431 (12) PENALTIES.—

432 (e)1. A qualified patient or caregiver in possession of  
433 marijuana ~~or a marijuana delivery device~~ who fails or refuses to  
434 present his or her marijuana use registry identification card  
435 upon the request of a law enforcement officer commits a

34-00319A-18

2018726\_\_

436 misdemeanor of the second degree, punishable as provided in s.  
437 775.082 or s. 775.083, unless it can be determined through the  
438 medical marijuana use registry that the person is authorized to  
439 be in possession of that marijuana ~~or marijuana delivery device~~.

440       2. A person charged with a violation of this paragraph may  
441 not be convicted if, before or at the time of his or her court  
442 or hearing appearance, the person produces in court or to the  
443 clerk of the court in which the charge is pending a medical  
444 marijuana use registry identification card issued to him or her  
445 which is valid at the time of his or her arrest. The clerk of  
446 the court is authorized to dismiss such case at any time before  
447 the defendant's appearance in court. The clerk of the court may  
448 assess a fee of \$5 for dismissing the case under this paragraph.

449       Section 2. This act shall take effect July 1, 2018.