

By Senator Brandes

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1                   A bill to be entitled  
2           An act relating to smoking marijuana for medical use;  
3           amending s. 381.986, F.S.; redefining the term  
4           "medical use" to include the possession, use, or  
5           administration of marijuana in a form for smoking;  
6           conforming a provision to changes made by the act;  
7           deleting a provision prohibiting a medical marijuana  
8           treatment center from dispensing or selling specified  
9           products; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Paragraph (j) of subsection (1) and paragraph  
14           (e) of subsection (8) of section 381.986, Florida Statutes, are  
15           amended to read:

16           381.986 Medical use of marijuana.—

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

18           (j) "Medical use" means the acquisition, possession, use,  
19           delivery, transfer, or administration of marijuana authorized by  
20           a physician certification. The term does not include:

21           1. Possession, use, or administration of marijuana that was  
22           not purchased or acquired from a medical marijuana treatment  
23           center.

24           2. Possession, use, or administration of marijuana in a  
25           ~~form for smoking,~~ in the form of commercially produced food  
26           items other than edibles, ~~or of marijuana seeds or flower,~~  
27           ~~except for flower in a sealed, tamper-proof receptacle for~~  
28           ~~vaping.~~

29           3. Use or administration of any form or amount of marijuana

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30 in a manner that is inconsistent with the qualified physician's  
31 directions or physician certification.

32 4. Transfer of marijuana to a person other than the  
33 qualified patient for whom it was authorized or the qualified  
34 patient's caregiver on behalf of the qualified patient.

35 5. Use or administration of marijuana in the following  
36 locations:

37 a. On any form of public transportation, except for low-THC  
38 cannabis.

39 b. In any public place, except for low-THC cannabis.

40 c. In a qualified patient's place of employment, except  
41 when permitted by his or her employer.

42 d. In a state correctional institution, as defined in s.  
43 944.02, or a correctional institution, as defined in s. 944.241.

44 e. On the grounds of a preschool, primary school, or  
45 secondary school, except as provided in s. 1006.062.

46 f. In a school bus, a vehicle, an aircraft, or a motorboat,  
47 except for low-THC cannabis.

48  
49 For the purposes of this subparagraph, the exceptions for low-  
50 THC cannabis do not include the smoking of low-THC cannabis.

51 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

52 (e) A licensed medical marijuana treatment center shall  
53 cultivate, process, transport, and dispense marijuana for  
54 medical use. A licensed medical marijuana treatment center may  
55 not contract for services directly related to the cultivation,  
56 processing, and dispensing of marijuana or marijuana delivery  
57 devices, except that a medical marijuana treatment center  
58 licensed pursuant to subparagraph (a)1. may contract with a

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59 single entity for the cultivation, processing, transporting, and  
60 dispensing of marijuana and marijuana delivery devices. A  
61 licensed medical marijuana treatment center must, at all times,  
62 maintain compliance with the criteria demonstrated and  
63 representations made in the initial application and the criteria  
64 established in this subsection. Upon request, the department may  
65 grant a medical marijuana treatment center a variance from the  
66 representations made in the initial application. Consideration  
67 of such a request shall be based upon the individual facts and  
68 circumstances surrounding the request. A variance may not be  
69 granted unless the requesting medical marijuana treatment center  
70 can demonstrate to the department that it has a proposed  
71 alternative to the specific representation made in its  
72 application which fulfills the same or a similar purpose as the  
73 specific representation in a way that the department can  
74 reasonably determine will not be a lower standard than the  
75 specific representation in the application. A variance may not  
76 be granted from the requirements in subparagraph 2. and  
77 subparagraphs (b)1. and 2.

78 1. A licensed medical marijuana treatment center may  
79 transfer ownership to an individual or entity who meets the  
80 requirements of this section. A publicly traded corporation or  
81 publicly traded company that meets the requirements of this  
82 section is not precluded from ownership of a medical marijuana  
83 treatment center. To accommodate a change in ownership:

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

87 b. The individual or entity applying for initial licensure

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88 due to a change of ownership must submit an application that  
89 must be received by the department at least 60 days before the  
90 date of change of ownership.

91 c. Upon receipt of an application for a license, the  
92 department shall examine the application and, within 30 days  
93 after receipt, notify the applicant in writing of any apparent  
94 errors or omissions and request any additional information  
95 required.

96 d. Requested information omitted from an application for  
97 licensure must be filed with the department within 21 days after  
98 the department's request for omitted information or the  
99 application shall be deemed incomplete and shall be withdrawn  
100 from further consideration and the fees shall be forfeited.

101  
102 Within 30 days after the receipt of a complete application, the  
103 department shall approve or deny the application.

104 2. A medical marijuana treatment center, and any individual  
105 or entity who directly or indirectly owns, controls, or holds  
106 with power to vote 5 percent or more of the voting shares of a  
107 medical marijuana treatment center, may not acquire direct or  
108 indirect ownership or control of any voting shares or other form  
109 of ownership of any other medical marijuana treatment center.

110 3. A medical marijuana treatment center may not enter into  
111 any form of profit-sharing arrangement with the property owner  
112 or lessor of any of its facilities where cultivation,  
113 processing, storing, or dispensing of marijuana and marijuana  
114 delivery devices occurs.

115 4. All employees of a medical marijuana treatment center  
116 must be 21 years of age or older and have passed a background

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117 screening pursuant to subsection (9).

118       5. Each medical marijuana treatment center must adopt and  
119 enforce policies and procedures to ensure employees and  
120 volunteers receive training on the legal requirements to  
121 dispense marijuana to qualified patients.

122       6. When growing marijuana, a medical marijuana treatment  
123 center:

124       a. May use pesticides determined by the department, after  
125 consultation with the Department of Agriculture and Consumer  
126 Services, to be safely applied to plants intended for human  
127 consumption, but may not use pesticides designated as  
128 restricted-use pesticides pursuant to s. 487.042.

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

131       c. Must inspect seeds and growing plants for plant pests  
132 that endanger or threaten the horticultural and agricultural  
133 interests of the state in accordance with chapter 581 and any  
134 rules adopted thereunder.

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

138       7. Each medical marijuana treatment center must produce and  
139 make available for purchase at least one low-THC cannabis  
140 product.

141       8. A medical marijuana treatment center that produces  
142 edibles must hold a permit to operate as a food establishment  
143 pursuant to chapter 500, the Florida Food Safety Act, and must  
144 comply with all the requirements for food establishments  
145 pursuant to chapter 500 and any rules adopted thereunder.

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146 Edibles may not contain more than 200 milligrams of  
147 tetrahydrocannabinol, and a single serving portion of an edible  
148 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles  
149 may have a potency variance of no greater than 15 percent.  
150 Edibles may not be attractive to children; be manufactured in  
151 the shape of humans, cartoons, or animals; be manufactured in a  
152 form that bears any reasonable resemblance to products available  
153 for consumption as commercially available candy; or contain any  
154 color additives. To discourage consumption of edibles by  
155 children, the department shall determine by rule any shapes,  
156 forms, and ingredients allowed and prohibited for edibles.  
157 Medical marijuana treatment centers may not begin processing or  
158 dispensing edibles until after the effective date of the rule.  
159 The department shall also adopt sanitation rules providing the  
160 standards and requirements for the storage, display, or  
161 dispensing of edibles.

162         9. Within 12 months after licensure, a medical marijuana  
163 treatment center must demonstrate to the department that all of  
164 its processing facilities have passed a Food Safety Good  
165 Manufacturing Practices, such as Global Food Safety Initiative  
166 or equivalent, inspection by a nationally accredited certifying  
167 body. A medical marijuana treatment center must immediately stop  
168 processing at any facility which fails to pass this inspection  
169 until it demonstrates to the department that such facility has  
170 met this requirement.

171         10. When processing marijuana, a medical marijuana  
172 treatment center must:

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

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175           b. Comply with department rules when processing marijuana  
176 with hydrocarbon solvents or other solvents or gases exhibiting  
177 potential toxicity to humans. The department shall determine by  
178 rule the requirements for medical marijuana treatment centers to  
179 use such solvents or gases exhibiting potential toxicity to  
180 humans.

181           c. Comply with federal and state laws and regulations and  
182 department rules for solid and liquid wastes. The department  
183 shall determine by rule procedures for the storage, handling,  
184 transportation, management, and disposal of solid and liquid  
185 waste generated during marijuana production and processing. The  
186 Department of Environmental Protection shall assist the  
187 department in developing such rules.

188           d. Test the processed marijuana using a medical marijuana  
189 testing laboratory before it is dispensed. Results must be  
190 verified and signed by two medical marijuana treatment center  
191 employees. Before dispensing, the medical marijuana treatment  
192 center must determine that the test results indicate that low-  
193 THC cannabis meets the definition of low-THC cannabis, the  
194 concentration of tetrahydrocannabinol meets the potency  
195 requirements of this section, the labeling of the concentration  
196 of tetrahydrocannabinol and cannabidiol is accurate, and all  
197 marijuana is safe for human consumption and free from  
198 contaminants that are unsafe for human consumption. The  
199 department shall determine by rule which contaminants must be  
200 tested for and the maximum levels of each contaminant which are  
201 safe for human consumption. The Department of Agriculture and  
202 Consumer Services shall assist the department in developing the  
203 testing requirements for contaminants that are unsafe for human

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204 consumption in edibles. The department shall also determine by  
205 rule the procedures for the treatment of marijuana that fails to  
206 meet the testing requirements of this section, s. 381.988, or  
207 department rule. The department may select a random sample from  
208 edibles available for purchase in a dispensing facility which  
209 shall be tested by the department to determine that the edible  
210 meets the potency requirements of this section, is safe for  
211 human consumption, and the labeling of the tetrahydrocannabinol  
212 and cannabidiol concentration is accurate. A medical marijuana  
213 treatment center may not require payment from the department for  
214 the sample. A medical marijuana treatment center must recall  
215 edibles, including all edibles made from the same batch of  
216 marijuana, which fail to meet the potency requirements of this  
217 section, which are unsafe for human consumption, or for which  
218 the labeling of the tetrahydrocannabinol and cannabidiol  
219 concentration is inaccurate. The medical marijuana treatment  
220 center must retain records of all testing and samples of each  
221 homogenous batch of marijuana for at least 9 months. The medical  
222 marijuana treatment center must contract with a marijuana  
223 testing laboratory to perform audits on the medical marijuana  
224 treatment center's standard operating procedures, testing  
225 records, and samples and provide the results to the department  
226 to confirm that the marijuana or low-THC cannabis meets the  
227 requirements of this section and that the marijuana or low-THC  
228 cannabis is safe for human consumption. A medical marijuana  
229 treatment center shall reserve two processed samples from each  
230 batch and retain such samples for at least 9 months for the  
231 purpose of such audits. A medical marijuana treatment center may  
232 use a laboratory that has not been certified by the department

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233 under s. 381.988 until such time as at least one laboratory  
234 holds the required certification, but in no event later than  
235 July 1, 2018.

236 e. Package the marijuana in compliance with the United  
237 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.  
238 1471 et seq.

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

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

243 (II) The name of the medical marijuana treatment center  
244 from which the marijuana originates.

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

247 (IV) The name of the physician who issued the physician  
248 certification.

249 (V) The name of the patient.

250 (VI) The product name, if applicable, and dosage form,  
251 including concentration of tetrahydrocannabinol and cannabidiol.  
252 The product name may not contain wording commonly associated  
253 with products marketed by or to children.

254 (VII) The recommended dose.

255 (VIII) A warning that it is illegal to transfer medical  
256 marijuana to another person.

257 (IX) A marijuana universal symbol developed by the  
258 department.

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

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- 262 a. Clinical pharmacology.
- 263 b. Indications and use.
- 264 c. Dosage and administration.
- 265 d. Dosage forms and strengths.
- 266 e. Contraindications.
- 267 f. Warnings and precautions.
- 268 g. Adverse reactions.
- 269 12. Each edible shall be individually sealed in plain,
- 270 opaque wrapping marked only with the marijuana universal symbol.
- 271 Where practical, each edible shall be marked with the marijuana
- 272 universal symbol. In addition to the packaging and labeling
- 273 requirements in subparagraphs 10. and 11., edible receptacles
- 274 must be plain, opaque, and white without depictions of the
- 275 product or images other than the medical marijuana treatment
- 276 center's department-approved logo and the marijuana universal
- 277 symbol. The receptacle must also include a list all of the
- 278 edible's ingredients, storage instructions, an expiration date,
- 279 a legible and prominent warning to keep away from children and
- 280 pets, and a warning that the edible has not been produced or
- 281 inspected pursuant to federal food safety laws.
- 282 13. When dispensing marijuana or a marijuana delivery
- 283 device, a medical marijuana treatment center:
- 284 a. May dispense any active, valid order for low-THC
- 285 cannabis, medical cannabis and cannabis delivery devices issued
- 286 pursuant to former s. 381.986, Florida Statutes 2016, which was
- 287 entered into the medical marijuana use registry before July 1,
- 288 2017.
- 289 b. May not dispense more than a 70-day supply of marijuana
- 290 to a qualified patient or caregiver.

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291 c. Must have the medical marijuana treatment center's  
292 employee who dispenses the marijuana or a marijuana delivery  
293 device enter into the medical marijuana use registry his or her  
294 name or unique employee identifier.

295 d. Must verify that the qualified patient and the  
296 caregiver, if applicable, each have an active registration in  
297 the medical marijuana use registry and an active and valid  
298 medical marijuana use registry identification card, the amount  
299 and type of marijuana dispensed matches the physician  
300 certification in the medical marijuana use registry for that  
301 qualified patient, and the physician certification has not  
302 already been filled.

303 e. May not dispense marijuana to a qualified patient who is  
304 younger than 18 years of age. If the qualified patient is  
305 younger than 18 years of age, marijuana may only be dispensed to  
306 the qualified patient's caregiver.

307 f. May not dispense or sell any other type of cannabis,  
308 alcohol, or illicit drug-related product, ~~including pipes,~~  
309 ~~bongs, or wrapping papers,~~ other than a marijuana delivery  
310 device required for the medical use of marijuana and which is  
311 specified in a physician certification.

312 g. Must, upon dispensing the marijuana or marijuana  
313 delivery device, record in the registry the date, time,  
314 quantity, and form of marijuana dispensed; the type of marijuana  
315 delivery device dispensed; and the name and medical marijuana  
316 use registry identification number of the qualified patient or  
317 caregiver to whom the marijuana delivery device was dispensed.

318 h. Must ensure that patient records are not visible to  
319 anyone other than the qualified patient, his or her caregiver,

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320 and authorized medical marijuana treatment center employees.

321 Section 2. This act shall take effect upon becoming a law.