

By Senator Farmer

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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 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 marijuana delivery devices only be
8 dispensed by medical marijuana treatment centers;
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 the requirement that at
21 least two persons be in a vehicle transporting
22 marijuana delivery devices; removing the requirement
23 that safety and security training be provided to
24 employees transporting or delivering marijuana
25 delivery devices; revising grounds for a criminal
26 penalty to remove the requirement that a qualified
27 patient or caregiver present his or her medical
28 marijuana use registry identification card when in
29 possession of a marijuana delivery device under

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30 certain circumstances; providing 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 the possession, use, or administration
54 of marijuana in a form for smoking.

55 2. The term does not include:

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

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59 ~~b.2.~~ The possession, use, or administration of marijuana ~~in~~
60 ~~a 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.~~ The 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.~~ The 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.~~ The use or administration of marijuana on or in any of
71 the following ~~locations:~~

72 ~~(I)a.~~ ~~On~~ Any form of public transportation. This sub-sub-
73 subparagraph does not apply to the use or administration of,
74 ~~except for~~ low-THC cannabis.

75 ~~(II)b.~~ ~~In~~ Any public place. This sub-sub-subparagraph does
76 not apply to the use or administration of, ~~except for~~ low-THC
77 cannabis.

78 ~~(III)c.~~ ~~In~~ A qualified patient's place of employment,
79 except when permitted by his or her employer.

80 ~~(IV)d.~~ ~~In~~ A state correctional institution, as defined in
81 s. 944.02, or a correctional institution, as defined in s.
82 944.241.

83 ~~(V)e.~~ ~~On~~ The grounds of a preschool, primary school, or
84 secondary school, except as provided in s. 1006.062.

85 ~~(VI)f.~~ ~~In~~ A school bus, a vehicle, an aircraft, or a
86 motorboat. This sub-sub-subparagraph does not apply to the use
87 or administration of, ~~except for~~ low-THC cannabis.

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88 (k) "Physician certification" means a qualified physician's
89 authorization for a qualified patient to receive marijuana ~~and a~~
90 ~~marijuana delivery device~~ from a medical marijuana treatment
91 center or marijuana delivery devices needed by the qualified
92 patient for medical use.

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

96 (5) MEDICAL MARIJUANA USE REGISTRY.—

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

112 (6) CAREGIVERS.—

113 (g) A caregiver must be in immediate possession of his or
114 her medical marijuana use registry identification card at all
115 times when in possession of marijuana ~~or a marijuana delivery~~
116 ~~device~~ and must present his or her medical marijuana use

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117 registry identification card upon the request of a law
118 enforcement officer.

119 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

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

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146 1. A licensed medical marijuana treatment center may
147 transfer ownership to an individual or entity who meets the
148 requirements of this section. A publicly traded corporation or
149 publicly traded company that meets the requirements of this
150 section is not precluded from ownership of a medical marijuana
151 treatment center. To accommodate a change in ownership:

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

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

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

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

169
170 Within 30 days after the receipt of a complete application, the
171 department shall approve or deny the application.

172 2. A medical marijuana treatment center, and any individual
173 or entity who directly or indirectly owns, controls, or holds
174 with power to vote 5 percent or more of the voting shares of a

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175 medical marijuana treatment center, may not acquire direct or
176 indirect ownership or control of any voting shares or other form
177 of ownership of any other medical marijuana treatment center.

178 3. A medical marijuana treatment center may not enter into
179 any form of profit-sharing arrangement with the property owner
180 or lessor of any of its facilities where cultivation,
181 processing, storing, or dispensing of marijuana and marijuana
182 delivery devices occurs.

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

186 5. Each medical marijuana treatment center must adopt and
187 enforce policies and procedures to ensure employees and
188 volunteers receive training on the legal requirements to
189 dispense marijuana to qualified patients.

190 6. When growing marijuana, a medical marijuana treatment
191 center:

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

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

199 c. Must inspect seeds and growing plants for plant pests
200 that endanger or threaten the horticultural and agricultural
201 interests of the state in accordance with chapter 581 and any
202 rules adopted thereunder.

203 d. Must perform fumigation or treatment of plants, or

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204 remove and destroy infested or infected plants, in accordance
205 with chapter 581 and any rules adopted thereunder.

206 7. Each medical marijuana treatment center must produce and
207 make available for purchase at least one low-THC cannabis
208 product.

209 8. A medical marijuana treatment center that produces
210 edibles must hold a permit to operate as a food establishment
211 pursuant to chapter 500, the Florida Food Safety Act, and must
212 comply with all the requirements for food establishments
213 pursuant to chapter 500 and any rules adopted thereunder.

214 Edibles may not contain more than 200 milligrams of
215 tetrahydrocannabinol, and a single serving portion of an edible
216 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles
217 may have a potency variance of no greater than 15 percent.
218 Edibles may not be attractive to children; be manufactured in
219 the shape of humans, cartoons, or animals; be manufactured in a
220 form that bears any reasonable resemblance to products available
221 for consumption as commercially available candy; or contain any
222 color additives. To discourage consumption of edibles by
223 children, the department shall determine by rule any shapes,
224 forms, and ingredients allowed and prohibited for edibles.
225 Medical marijuana treatment centers may not begin processing or
226 dispensing edibles until after the effective date of the rule.
227 The department shall also adopt sanitation rules providing the
228 standards and requirements for the storage, display, or
229 dispensing of edibles.

230 9. Within 12 months after licensure, a medical marijuana
231 treatment center must demonstrate to the department that all of
232 its processing facilities have passed a Food Safety Good

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233 Manufacturing Practices, such as Global Food Safety Initiative
234 or equivalent, inspection by a nationally accredited certifying
235 body. A medical marijuana treatment center must immediately stop
236 processing at any facility which fails to pass this inspection
237 until it demonstrates to the department that such facility has
238 met this requirement.

239 10. When processing marijuana, a medical marijuana
240 treatment center must:

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

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

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

256 d. Test the processed marijuana using a medical marijuana
257 testing laboratory before it is dispensed. Results must be
258 verified and signed by two medical marijuana treatment center
259 employees. Before dispensing, the medical marijuana treatment
260 center must determine that the test results indicate that low-
261 THC cannabis meets the definition of low-THC cannabis, the

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

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

304 e. Package the marijuana in compliance with the United
305 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.
306 1471 et seq.

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

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

311 (II) The name of the medical marijuana treatment center
312 from which the marijuana originates.

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

315 (IV) The name of the physician who issued the physician
316 certification.

317 (V) The name of the patient.

318 (VI) The product name, if applicable, and dosage form,
319 including concentration of tetrahydrocannabinol and cannabidiol.

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320 The product name may not contain wording commonly associated
321 with products marketed by or to children.

322 (VII) The recommended dose.

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

325 (IX) A marijuana universal symbol developed by the
326 department.

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

330 a. Clinical pharmacology.

331 b. Indications and use.

332 c. Dosage and administration.

333 d. Dosage forms and strengths.

334 e. Contraindications.

335 f. Warnings and precautions.

336 g. Adverse reactions.

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

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349 inspected pursuant to federal food safety laws.

350 13. When dispensing marijuana or a marijuana delivery
351 device, a medical marijuana treatment center:

352 a. May dispense any active, valid order for low-THC
353 cannabis, medical cannabis and cannabis delivery devices issued
354 pursuant to former s. 381.986, Florida Statutes 2016, which was
355 entered into the medical marijuana use registry before July 1,
356 2017.

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

359 c. Must have the medical marijuana treatment center's
360 employee who dispenses the marijuana or a marijuana delivery
361 device enter into the medical marijuana use registry his or her
362 name or unique employee identifier.

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

371 e. May not dispense marijuana to a qualified patient who is
372 younger than 18 years of age. If the qualified patient is
373 younger than 18 years of age, marijuana may only be dispensed to
374 the qualified patient's caregiver.

375 f. May not dispense or sell any other type of cannabis,
376 alcohol, or illicit drug-related product, ~~including pipes,~~
377 ~~bongs, or wrapping papers,~~ other than a marijuana delivery

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378 device required for the medical use of marijuana as ~~and which is~~
379 specified in a physician certification.

380 g. Must, upon dispensing the marijuana or marijuana
381 delivery device, record in the registry the date, time,
382 quantity, and form of marijuana dispensed; the type of marijuana
383 delivery device dispensed; and the name and medical marijuana
384 use registry identification number of the qualified patient or
385 caregiver to whom the marijuana delivery device was dispensed.

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

389 (g) To ensure the safe transport of marijuana ~~and marijuana~~
390 ~~delivery devices~~ to medical marijuana treatment centers,
391 marijuana testing laboratories, or qualified patients, a medical
392 marijuana treatment center must:

393 1. Maintain a marijuana transportation manifest in any
394 vehicle transporting marijuana. The marijuana transportation
395 manifest must be generated from a medical marijuana treatment
396 center's seed-to-sale tracking system and include the:

397 a. Departure date and approximate time of departure.

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

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

401 d. Quantity and form of any marijuana or marijuana delivery
402 device being transported.

403 e. Arrival date and estimated time of arrival.

404 f. Delivery vehicle make and model and license plate
405 number.

406 g. Name and signature of the medical marijuana treatment

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407 center employees delivering the product.

408 (I) A copy of the marijuana transportation manifest must be
409 provided to each individual, medical marijuana treatment center,
410 or marijuana testing laboratory that receives a delivery. The
411 individual, or a representative of the center or laboratory,
412 must sign a copy of the marijuana transportation manifest
413 acknowledging receipt.

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

418 (III) Medical marijuana treatment centers and marijuana
419 testing laboratories must retain copies of all marijuana
420 transportation manifests for at least 3 years.

421 2. Ensure only vehicles in good working order are used to
422 transport marijuana.

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

425 4. Require employees to have possession of their employee
426 identification card at all times when transporting marijuana or
427 marijuana delivery devices.

428 5. Require at least two persons to be in a vehicle
429 transporting marijuana ~~or marijuana delivery devices~~, and
430 require at least one person to remain in the vehicle while the
431 marijuana ~~or marijuana delivery device~~ is being delivered.

432 6. Provide specific safety and security training to
433 employees transporting or delivering marijuana ~~and marijuana~~
434 ~~delivery devices~~.

435 (12) PENALTIES.—

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436 (e)1. A qualified patient or caregiver in possession of
437 marijuana ~~or a marijuana delivery device~~ who fails or refuses to
438 present his or her marijuana use registry identification card
439 upon the request of a law enforcement officer commits a
440 misdemeanor of the second degree, punishable as provided in s.
441 775.082 or s. 775.083, unless it can be determined through the
442 medical marijuana use registry that the person is authorized to
443 be in possession of that marijuana ~~or marijuana delivery device~~.

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

453 Section 2. This act shall take effect July 1, 2019.

454