

1 A bill to be entitled

2 An act relating to the availability of marijuana for
3 adult use; amending s. 212.08, F.S.; revising the
4 sales tax exemption for the sale of marijuana and
5 marijuana delivery devices to apply only to purchases
6 by qualified patients or caregivers; amending s.
7 381.986, F.S.; revising definitions; revising
8 provisions related to the licensure and functions of
9 medical marijuana treatment centers (MMTCs); requiring
10 the Department of Health to adopt by rule certain
11 standards and procedures; requiring the department to
12 adopt by rule a certain MMTC registration form;
13 specifying registration requirements; providing that a
14 registration expires after a specified time;
15 specifying that registration is not sufficient for
16 certain operations; requiring an MMTC to obtain
17 separate operating licenses for certain operations;
18 specifying application requirements for MMTCs to
19 obtain cultivation licenses and processing licenses;
20 providing for the expiration of and renewal of such
21 licenses; requiring an MMTC to obtain a facility
22 permit before cultivating or processing marijuana in
23 the facility; authorizing MMTCs licensed to cultivate
24 or process marijuana to use contractors to assist with
25 the cultivation and processing of marijuana under

26 | certain conditions; requiring the contractors to
27 | obtain facility permits and register principals and
28 | employees; providing for the destruction of certain
29 | marijuana byproducts within a specified timeframe
30 | after their production; authorizing MMTCs licensed to
31 | cultivate and process marijuana to wholesale marijuana
32 | to other registered MMTCs under certain circumstances;
33 | prohibiting an MMTC from transporting or delivering
34 | marijuana outside of its property without a
35 | transportation license; providing requirements for the
36 | cultivation and the processing of marijuana; deleting
37 | a requirement that each MMTC produce and make
38 | available for purchase at least one low-THC cannabis
39 | product; deleting certain tetrahydrocannabinol limits
40 | for edibles; requiring an MMTC that holds a license
41 | for processing to test marijuana before it is sold in
42 | addition to when it is dispensed; deleting obsolete
43 | language; revising marijuana packaging requirements;
44 | providing application requirements for an MMTC to
45 | obtain a retail license; providing for the expiration
46 | and renewal of such licenses; requiring an MMTC to
47 | obtain a facility permit before selling, dispensing,
48 | or storing marijuana in the facility; requiring the
49 | facility to cease certain operations under certain
50 | circumstances; prohibiting a dispensing facility from

51 repackaging or modifying marijuana that has already
52 been packaged for sale, with certain exceptions;
53 authorizing a retail licensee to contract with an MMTC
54 that has a transportation license to transport
55 marijuana for the retail licensee under certain
56 circumstances; prohibiting onsite consumption or
57 administration of marijuana at a dispensing facility;
58 revising requirements for the dispensing of marijuana;
59 requiring a licensed retail MMTC to include specified
60 information on a label for marijuana or a marijuana
61 delivery device dispensed to a qualified patient or
62 caregiver; authorizing an MMTC to sell marijuana to an
63 adult 21 years of age or older under certain
64 circumstances; requiring MMTC employees to verify the
65 age of such buyers using specified methods;
66 prohibiting an MMTC from requesting or storing any
67 personal information of a buyer other than that needed
68 to verify the buyer's age; deleting a provision
69 prohibiting an MMTC from dispensing or selling
70 specified products; providing application requirements
71 for an MMTC to obtain a transportation license;
72 providing marijuana transportation requirements;
73 prohibiting the transportation of marijuana on certain
74 properties; prohibiting the transportation of
75 marijuana in a vehicle that is not owned or leased by

76 | a licensee or the licensee's contractor and not
77 | appropriately permitted by the department; providing a
78 | process for the issuance and cancellation of vehicle
79 | permits; requiring that each permitted vehicle be GPS
80 | monitored; specifying that a permitted vehicle
81 | transporting marijuana is subject to inspection and
82 | search without a search warrant by specified persons;
83 | authorizing an MMTC licensed to transport marijuana
84 | and marijuana delivery devices to deliver or contract
85 | for the delivery of marijuana to other MMTCs, to
86 | qualified patients and caregivers within this state,
87 | and to adults 21 years of age or older within this
88 | state; establishing that a county or municipality may
89 | not prohibit deliveries of marijuana and marijuana
90 | delivery devices to qualified patients and caregivers
91 | within the county or municipality; requiring an MMTC
92 | delivering marijuana or a marijuana delivery device to
93 | a qualified patient or his or her caregiver to verify
94 | the identity of the qualified patient; requiring an
95 | MMTC delivering marijuana to an adult 21 years of age
96 | or older to verify his or her age; requiring the
97 | department to adopt certain rules for the delivery of
98 | marijuana; authorizing MMTCs to use contractors to
99 | assist with the transportation of marijuana, but
100 | providing that an MMTC is responsible for the actions

101 and operations of the contractor which are related to
102 the transportation of marijuana; requiring an MMTC to
103 know the location of all of its marijuana products at
104 all times; requiring principals and employees of a
105 contractor to register with the department and receive
106 an MMTC employee identification card before
107 participating in the operations of the MMTC; providing
108 for the permitting of cultivation, processing,
109 dispensing, and storage facilities; requiring the
110 department to adopt by rule a facility permit
111 application form; requiring the department to inspect
112 a facility before issuing a permit; requiring the
113 department to issue or deny a facility permit within a
114 specified timeframe; providing for the expiration of
115 facility permits; requiring the department to inspect
116 a facility for compliance before the renewal of a
117 facility permit; requiring an MMTC to cease applicable
118 operations if a facility's permit expires or is
119 suspended or revoked; requiring cultivation facilities
120 and processing facilities to be insured with specified
121 hazard and liability insurance; providing cultivation
122 facility and processing facility requirements;
123 preempting to the state all matters regarding the
124 permitting and regulation of cultivation facilities
125 and processing facilities; requiring dispensing

126 facilities and storage facilities to be insured with
127 specified hazard and liability insurance; providing
128 dispensing facility and storage facility requirements;
129 clarifying that the governing body of a county or a
130 municipality may prohibit a dispensing facility from
131 being located in its jurisdiction or limit the number
132 of such facilities but may not prohibit a licensed
133 retail MMTC or its permitted storage facility from
134 being located in such county's or municipality's
135 jurisdiction if the MMTC is delivering marijuana to
136 qualified patients in that jurisdiction; prohibiting
137 the department from issuing a facility permit for a
138 dispensing facility in a county or municipality that
139 adopts a specified ordinance; authorizing a county or
140 municipality to levy a local tax on a dispensing
141 facility; providing that local ordinances may not
142 result in or provide for certain outcomes; authorizing
143 the department to adopt specified requirements by
144 rule; requiring the department to adopt rules to
145 administer the registration of certain MMTC
146 principals, employees, and contractors; requiring an
147 MMTC to apply to the department for the registration
148 of certain persons before hiring or contracting with
149 any such persons; requiring the department to adopt by
150 rule a registration form that includes specified

151 information; requiring the department to register
152 persons who satisfy specified conditions and issue
153 them MMTC employee identification cards; requiring a
154 registered person and the MMTC to update the
155 department within a specified timeframe if certain
156 information or the person's employment status changes;
157 authorizing the department to contract with vendors to
158 issue MMTC employee identification cards; requiring
159 the department to inspect an MMTC and its facilities
160 upon receipt of a complaint and to inspect each
161 permitted facility at least biennially; authorizing
162 the department to conduct additional inspections of a
163 facility under certain circumstances; authorizing the
164 department to impose administrative penalties on an
165 MMTC for violating certain provisions; requiring the
166 department to refuse to renew an MMTC's cultivation,
167 processing, retail, or transportation license under
168 certain circumstances; revising provisions related to
169 penalties and fees to conform to changes made by the
170 act; providing applicability; conforming provisions to
171 changes made by the act; creating s. 381.990, F.S.;
172 authorizing an adult 21 years of age or older to
173 purchase, possess, use, transport, or transfer to
174 another adult 21 years of age or older marijuana
175 products, marijuana in a form for smoking, and

176 marijuana delivery devices under certain
177 circumstances; providing that such marijuana products,
178 marijuana in a form for smoking, or marijuana delivery
179 devices must be purchased from an MMTC licensed by the
180 department for the retail sale of marijuana and
181 registered with the Department of Business and
182 Professional Regulation for sale of marijuana for
183 adult use; providing penalties; clarifying that a
184 private property owner may restrict the smoking or
185 vaping of marijuana on his or her property but may not
186 prevent his or her tenants from possessing or using
187 marijuana by other means; providing that certain
188 provisions do not exempt a person from prosecution for
189 a criminal offense related to impairment or
190 intoxication resulting from the use of marijuana and
191 do not relieve a person from any legal requirement to
192 submit to certain tests to detect the presence of a
193 controlled substance; requiring the Department of
194 Agriculture and Consumer Services to conduct a study
195 on the harms and benefits of allowing the cultivation
196 of marijuana by members of the public for private use,
197 including use of a specified model; requiring the
198 department to report the results of the study to the
199 Governor and the Legislature by a specified date;
200 amending s. 893.13, F.S.; authorizing a person 21

201 | years of age or older to possess marijuana products in
202 | a specified amount and to deliver marijuana products
203 | to another person 21 years of age or older under
204 | certain circumstances; providing criminal penalties
205 | for the delivery or possession of marijuana products
206 | by a person younger than 21 years of age under certain
207 | circumstances; creating s. 893.1352, F.S.; providing
208 | legislative intent; providing for the retroactive
209 | applicability of s. 893.13, F.S.; requiring certain
210 | sentences for specified offenses; requiring sentence
211 | review hearings for individuals serving certain
212 | sentences for specified crimes; providing resentencing
213 | procedures; requiring the waiver of certain
214 | conviction-related fines, fees, and costs under
215 | certain circumstances; amending s. 893.147, F.S.;
216 | authorizing a person 21 years of age or older to
217 | possess, use, transport, or deliver, without
218 | consideration, a marijuana delivery device to a person
219 | 21 years of age or older; providing criminal penalties
220 | for a person younger than 21 years of age who
221 | possesses, uses, transports, or delivers, without
222 | consideration, a marijuana delivery device to a person
223 | 21 years of age or older; creating s. 943.0586, F.S.;
224 | defining terms; authorizing an individual convicted of
225 | certain crimes to petition the court for expunction of

226 his or her criminal history record under certain
227 circumstances; requiring the individual to first
228 obtain a certificate of eligibility from the
229 Department of Law Enforcement; requiring the
230 department to adopt rules establishing the procedures
231 for applying for and issuing such certificates;
232 requiring the department to issue a certificate under
233 certain circumstances; providing for the expiration of
234 and reapplication for the certificate; providing
235 requirements for the petition for expunction;
236 providing criminal penalties; providing for the
237 court's authority over its own procedures, with an
238 exception; requiring the court to order the expunction
239 of a criminal history record under certain
240 circumstances; clarifying that expunction of certain
241 criminal history records does not affect eligibility
242 for expunction of other criminal history records;
243 providing procedures for processing expunction
244 petitions and orders; providing that a person granted
245 an expunction may lawfully deny or fail to acknowledge
246 the underlying arrest or conviction, with exceptions;
247 providing that a person may not be deemed to have
248 committed perjury or otherwise held liable for giving
249 a false statement if he or she fails to recite or
250 acknowledge an expunged criminal history record;

251 amending s. 893.15, F.S.; conforming a provision to
 252 changes made by the act; providing effective dates.
 253

254 Be It Enacted by the Legislature of the State of Florida:
 255

256 Section 1. Paragraph (1) of subsection (2) of section
 257 212.08, Florida Statutes, is amended to read:

258 212.08 Sales, rental, use, consumption, distribution, and
 259 storage tax; specified exemptions.—The sale at retail, the
 260 rental, the use, the consumption, the distribution, and the
 261 storage to be used or consumed in this state of the following
 262 are hereby specifically exempt from the tax imposed by this
 263 chapter.

264 (2) EXEMPTIONS; MEDICAL.—

265 (1) Marijuana and marijuana delivery devices, as defined
 266 in s. 381.986, are exempt from the taxes imposed under this
 267 chapter when they are purchased by a qualified patient or a
 268 caregiver, as those terms are defined in s. 381.986.

269 Section 2. Paragraphs (d) through (h), (j), and (k) of
 270 subsection (1), paragraph (b) of subsection (3), paragraph (f)
 271 of subsection (4), paragraphs (a) and (f) of subsection (5),
 272 paragraph (b) of subsection (6), subsections (8) through (12),
 273 paragraphs (a), (b), (c), and (e) of subsection (14), and
 274 subsection (17) of section 381.986, Florida Statutes, are
 275 amended to read:

276 | 381.986 Medical use of marijuana.—

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

278 | (d) "Edibles" means commercially produced food items made
 279 | with marijuana oil, but no other form of marijuana, which ~~that~~
 280 | are produced and dispensed by a medical marijuana treatment
 281 | center (MMTC).

282 | (e) "Low-THC cannabis" means a plant of the genus
 283 | *Cannabis*, the dried flowers of which contain 0.8 percent or less
 284 | of tetrahydrocannabinol and more than 10 percent of cannabidiol
 285 | weight for weight; the seeds thereof; the resin extracted from
 286 | any part of such plant; or any compound, manufacture, salt,
 287 | derivative, mixture, or preparation of such plant or its seeds
 288 | or resin which ~~that~~ is dispensed from an MMTC ~~a medical~~
 289 | ~~marijuana treatment center~~.

290 | (f) "Marijuana" means all parts of any plant of the genus
 291 | *Cannabis*, whether growing or not; the seeds thereof; the resin
 292 | extracted from any part of the plant; and every compound,
 293 | manufacture, salt, derivative, mixture, or preparation of the
 294 | plant or its seeds or resin, including low-THC cannabis, which
 295 | is ~~are~~ dispensed from an MMTC ~~a medical marijuana treatment~~
 296 | ~~center~~ for medical use by a qualified patient.

297 | (g) "Marijuana delivery device" means an object used,
 298 | intended for use, or designed for use in preparing, storing,
 299 | ingesting, inhaling, or otherwise introducing marijuana into the
 300 | human body, ~~and~~ which object is dispensed from an MMTC ~~a medical~~

301 ~~marijuana treatment center~~ for medical use by a qualified
302 patient; however, such objects ~~except that delivery devices that~~
303 are intended solely for the medical use of marijuana by smoking
304 need not be dispensed from an MMTC and ~~a medical marijuana~~
305 ~~treatment center in order to~~ qualify as marijuana delivery
306 devices.

307 (h) "Marijuana testing laboratory" means a facility
308 certified by the department pursuant to s. 381.988 which that
309 collects and analyzes marijuana samples from an MMTC ~~a medical~~
310 ~~marijuana treatment center and has been certified by the~~
311 ~~department pursuant to s. 381.988.~~

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

315 1. Possession, use, or administration of marijuana that
316 was not purchased or acquired from an MMTC ~~a medical marijuana~~
317 ~~treatment center.~~

318 2. Possession, use, or administration of marijuana in the
319 form of commercially produced food items other than edibles or
320 of marijuana seeds.

321 3. Use or administration of any form or amount of
322 marijuana in a manner that is inconsistent with the qualified
323 physician's directions or physician certification.

324 4. Transfer of marijuana to a person other than the
325 qualified patient for whom it was authorized or the qualified

326 patient's caregiver on behalf of the qualified patient.

327 5. Use or administration of marijuana in the following
328 locations:

329 a. On any form of public transportation, except for low-
330 THC cannabis not in a form for smoking.

331 b. In any public place, except for low-THC cannabis not in
332 a form for smoking.

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

335 d. In a state correctional institution, as defined in s.
336 944.02, or a correctional institution, as defined in s. 944.241.

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

339 f. In a school bus, a vehicle, an aircraft, or a
340 motorboat, except for low-THC cannabis not in a form for
341 smoking.

342 6. The smoking of marijuana in an enclosed indoor
343 workplace as defined in s. 386.203(5).

344 (k) "Physician certification" means a qualified
345 physician's authorization for a qualified patient to receive
346 marijuana and a marijuana delivery device from an MMTC ~~a medical~~
347 ~~marijuana treatment center~~.

348 (3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

349 (b) A qualified physician may not be employed by, or have
350 any direct or indirect economic interest in, a medical marijuana

351 treatment center (MMTC) or marijuana testing laboratory.

352 (4) PHYSICIAN CERTIFICATION.—

353 (f) A qualified physician may not issue a physician
354 certification for more than three 70-day supply limits of
355 marijuana or more than six 35-day supply limits of marijuana in
356 a form for smoking. The department shall quantify by rule a
357 daily dose amount with equivalent dose amounts for each
358 allowable form of marijuana dispensed by a medical marijuana
359 treatment center (MMTC). The department shall use the daily dose
360 amount to calculate a 70-day supply.

361 1. A qualified physician may request an exception to the
362 daily dose amount limit, the 35-day supply limit of marijuana in
363 a form for smoking, and the 4-ounce possession limit of
364 marijuana in a form for smoking established in paragraph
365 (14) (a). The request shall be made electronically on a form
366 adopted by the department in rule and must include, at a
367 minimum:

368 a. The qualified patient's qualifying medical condition.

369 b. The dosage and route of administration that was
370 insufficient to provide relief to the qualified patient.

371 c. A description of how the patient will benefit from an
372 increased amount.

373 d. The minimum daily dose amount of marijuana that would
374 be sufficient for the treatment of the qualified patient's
375 qualifying medical condition.

376 2. A qualified physician must provide the qualified
377 patient's records upon the request of the department.

378 3. The department shall approve or disapprove the request
379 within 14 days after receipt of the complete documentation
380 required by this paragraph. The request shall be deemed approved
381 if the department fails to act within this time period.

382 (5) MEDICAL MARIJUANA USE REGISTRY.—

383 (a) The department shall create and maintain a secure,
384 electronic, and online medical marijuana use registry for
385 physicians, patients, and caregivers as provided under this
386 section. The medical marijuana use registry must be accessible
387 to law enforcement agencies, qualified physicians, and medical
388 marijuana treatment centers (MMTCs) to verify the authorization
389 of a qualified patient or a caregiver to possess marijuana or a
390 marijuana delivery device and record the marijuana or marijuana
391 delivery device dispensed. The medical marijuana use registry
392 must also be accessible to practitioners licensed to prescribe
393 prescription drugs to ensure proper care for patients before
394 medications that may interact with the medical use of marijuana
395 are prescribed. The medical marijuana use registry must prevent
396 an active registration of a qualified patient by multiple
397 physicians.

398 (f) The department may revoke the registration of a
399 qualified patient or caregiver who cultivates marijuana or who
400 acquires, possesses, or delivers marijuana from any person or

401 entity other than an MMTC ~~a medical marijuana treatment center.~~

402 (6) CAREGIVERS.—

403 (b) A caregiver must:

404 1. Not be a qualified physician and not be employed by or
405 have an economic interest in a medical marijuana treatment
406 center (MMTC) or a marijuana testing laboratory.

407 2. Be 21 years of age or older and a resident of this
408 state.

409 3. Agree in writing to assist with the qualified patient's
410 medical use of marijuana.

411 4. Be registered in the medical marijuana use registry as
412 a caregiver for no more than one qualified patient, except as
413 provided in this paragraph.

414 5. Successfully complete a caregiver certification course
415 developed and administered by the department or its designee,
416 which must be renewed biennially. The price of the course may
417 not exceed \$100.

418 6. Pass a level 2 background screening pursuant to chapter
419 435 ~~subsection (9)~~, unless the patient is a close relative of
420 the caregiver. In addition to the disqualifying offenses
421 specified in s. 435.04(2) and (3), a person may not serve as a
422 caregiver if he or she has an arrest awaiting final disposition
423 for; has been found guilty of, regardless of adjudication; or
424 has entered a plea of nolo contendere or guilty to an offense
425 under chapter 837, chapter 895, or chapter 896 or a similar law

426 of another jurisdiction.

427 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

428 ~~(a) The department shall license medical marijuana~~
429 ~~treatment centers to ensure reasonable statewide accessibility~~
430 ~~and availability as necessary for qualified patients registered~~
431 ~~in the medical marijuana use registry and who are issued a~~
432 ~~physician certification under this section.~~

433 ~~1. As soon as practicable, but no later than July 3, 2017,~~
434 ~~the department shall license as a medical marijuana treatment~~
435 ~~center any entity that holds an active, unrestricted license to~~
436 ~~cultivate, process, transport, and dispense low-THC cannabis,~~
437 ~~medical cannabis, and cannabis delivery devices, under former s.~~
438 ~~381.986, Florida Statutes 2016, before July 1, 2017, and which~~
439 ~~meets the requirements of this section. In addition to the~~
440 ~~authority granted under this section, these entities are~~
441 ~~authorized to dispense low-THC cannabis, medical cannabis, and~~
442 ~~cannabis delivery devices ordered pursuant to former s. 381.986,~~
443 ~~Florida Statutes 2016, which were entered into the compassionate~~
444 ~~use registry before July 1, 2017, and are authorized to begin~~
445 ~~dispensing marijuana under this section on July 3, 2017. The~~
446 ~~department may grant variances from the representations made in~~
447 ~~such an entity's original application for approval under former~~
448 ~~s. 381.986, Florida Statutes 2014, pursuant to paragraph (e).~~

449 ~~2. The department shall license as medical marijuana~~
450 ~~treatment centers 10 applicants that meet the requirements of~~

451 ~~this section, under the following parameters:~~

452 ~~a. As soon as practicable, but no later than August 1,~~
453 ~~2017, the department shall license any applicant whose~~
454 ~~application was reviewed, evaluated, and scored by the~~
455 ~~department and which was denied a dispensing organization~~
456 ~~license by the department under former s. 381.986, Florida~~
457 ~~Statutes 2014; which had one or more administrative or judicial~~
458 ~~challenges pending as of January 1, 2017, or had a final ranking~~
459 ~~within one point of the highest final ranking in its region~~
460 ~~under former s. 381.986, Florida Statutes 2014; which meets the~~
461 ~~requirements of this section; and which provides documentation~~
462 ~~to the department that it has the existing infrastructure and~~
463 ~~technical and technological ability to begin cultivating~~
464 ~~marijuana within 30 days after registration as a medical~~
465 ~~marijuana treatment center.~~

466 ~~b. As soon as practicable, the department shall license~~
467 ~~one applicant that is a recognized class member of *Pigford v.*~~
468 ~~*Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers*~~
469 ~~*Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011). An applicant licensed~~
470 ~~under this sub-subparagraph is exempt from the requirement of~~
471 ~~subparagraph (b)2.~~

472 ~~c. As soon as practicable, but no later than October 3,~~
473 ~~2017, the department shall license applicants that meet the~~
474 ~~requirements of this section in sufficient numbers to result in~~
475 ~~10 total licenses issued under this subparagraph, while~~

476 ~~accounting for the number of licenses issued under sub-~~
477 ~~subparagraphs a. and b.~~

478 ~~3. For up to two of the licenses issued under subparagraph~~
479 ~~2., the department shall give preference to applicants that~~
480 ~~demonstrate in their applications that they own one or more~~
481 ~~facilities that are, or were, used for the canning,~~
482 ~~concentrating, or otherwise processing of citrus fruit or citrus~~
483 ~~molasses and will use or convert the facility or facilities for~~
484 ~~the processing of marijuana.~~

485 ~~4. Within 6 months after the registration of 100,000~~
486 ~~active qualified patients in the medical marijuana use registry,~~
487 ~~the department shall license four additional medical marijuana~~
488 ~~treatment centers that meet the requirements of this section.~~
489 ~~Thereafter, the department shall license four medical marijuana~~
490 ~~treatment centers within 6 months after the registration of each~~
491 ~~additional 100,000 active qualified patients in the medical~~
492 ~~marijuana use registry that meet the requirements of this~~
493 ~~section.~~

494 ~~5. Dispensing facilities are subject to the following~~
495 ~~requirements:~~

496 ~~a. A medical marijuana treatment center may not establish~~
497 ~~or operate more than a statewide maximum of 25 dispensing~~
498 ~~facilities, unless the medical marijuana use registry reaches a~~
499 ~~total of 100,000 active registered qualified patients. When the~~
500 ~~medical marijuana use registry reaches 100,000 active registered~~

501 ~~qualified patients, and then upon each further instance of the~~
502 ~~total active registered qualified patients increasing by~~
503 ~~100,000, the statewide maximum number of dispensing facilities~~
504 ~~that each licensed medical marijuana treatment center may~~
505 ~~establish and operate increases by five.~~

506 ~~b. A medical marijuana treatment center may not establish~~
507 ~~more than the maximum number of dispensing facilities allowed in~~
508 ~~each of the Northwest, Northeast, Central, Southwest, and~~
509 ~~Southeast Regions. The department shall determine a medical~~
510 ~~marijuana treatment center's maximum number of dispensing~~
511 ~~facilities allowed in each region by calculating the percentage~~
512 ~~of the total statewide population contained within that region~~
513 ~~and multiplying that percentage by the medical marijuana~~
514 ~~treatment center's statewide maximum number of dispensing~~
515 ~~facilities established under sub-subparagraph a., rounded to the~~
516 ~~nearest whole number. The department shall ensure that such~~
517 ~~rounding does not cause a medical marijuana treatment center's~~
518 ~~total number of statewide dispensing facilities to exceed its~~
519 ~~statewide maximum. The department shall initially calculate the~~
520 ~~maximum number of dispensing facilities allowed in each region~~
521 ~~for each medical marijuana treatment center using county~~
522 ~~population estimates from the Florida Estimates of Population~~
523 ~~2016, as published by the Office of Economic and Demographic~~
524 ~~Research, and shall perform recalculations following the~~
525 ~~official release of county population data resulting from each~~

526 ~~United States Decennial Census. For the purposes of this~~
 527 ~~subparagraph:~~

528 ~~(I) The Northwest Region consists of Bay, Calhoun,~~
 529 ~~Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson,~~
 530 ~~Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla,~~
 531 ~~Walton, and Washington Counties.~~

532 ~~(II) The Northeast Region consists of Alachua, Baker,~~
 533 ~~Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist,~~
 534 ~~Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns,~~
 535 ~~Suwannee, and Union Counties.~~

536 ~~(III) The Central Region consists of Brevard, Citrus,~~
 537 ~~Hardee, Hernando, Indian River, Lake, Orange, Osceola, Pasco,~~
 538 ~~Pinellas, Polk, Seminole, St. Lucie, Sumter, and Volusia~~
 539 ~~Counties.~~

540 ~~(IV) The Southwest Region consists of Charlotte, Collier,~~
 541 ~~DeSoto, Glades, Hendry, Highlands, Hillsborough, Lee, Manatee,~~
 542 ~~Okeechobee, and Sarasota Counties.~~

543 ~~(V) The Southeast Region consists of Broward, Miami-Dade,~~
 544 ~~Martin, Monroe, and Palm Beach Counties.~~

545 ~~e. If a medical marijuana treatment center establishes a~~
 546 ~~number of dispensing facilities within a region that is less~~
 547 ~~than the number allowed for that region under sub-subparagraph~~
 548 ~~b., the medical marijuana treatment center may sell one or more~~
 549 ~~of its unused dispensing facility slots to other licensed~~
 550 ~~medical marijuana treatment centers. For each dispensing~~

551 ~~facility slot that a medical marijuana treatment center sells,~~
552 ~~that medical marijuana treatment center's statewide maximum~~
553 ~~number of dispensing facilities, as determined under sub-~~
554 ~~subparagraph a., is reduced by one. The statewide maximum number~~
555 ~~of dispensing facilities for a medical marijuana treatment~~
556 ~~center that purchases an unused dispensing facility slot is~~
557 ~~increased by one per slot purchased. Additionally, the sale of a~~
558 ~~dispensing facility slot shall reduce the seller's regional~~
559 ~~maximum and increase the purchaser's regional maximum number of~~
560 ~~dispensing facilities, as determined in sub-subparagraph b., by~~
561 ~~one for that region. For any slot purchased under this sub-~~
562 ~~subparagraph, the regional restriction applied to that slot's~~
563 ~~location under sub-subparagraph b. before the purchase shall~~
564 ~~remain in effect following the purchase. A medical marijuana~~
565 ~~treatment center that sells or purchases a dispensing facility~~
566 ~~slot must notify the department within 3 days of sale.~~

567 ~~d. This subparagraph shall expire on April 1, 2020.~~

568
569 ~~If this subparagraph or its application to any person or~~
570 ~~circumstance is held invalid, the invalidity does not affect~~
571 ~~other provisions or applications of this act which can be given~~
572 ~~effect without the invalid provision or application, and to this~~
573 ~~end, the provisions of this subparagraph are severable.~~

574 ~~(b) An applicant for licensure as a medical marijuana~~
575 ~~treatment center shall apply to the department on a form~~

576 ~~prescribed by the department and adopted in rule. The department~~
577 ~~shall adopt rules pursuant to ss. 120.536(1) and 120.54~~
578 ~~establishing a procedure for the issuance and biennial renewal~~
579 ~~of licenses, including initial application and biennial renewal~~
580 ~~fees sufficient to cover the costs of implementing and~~
581 ~~administering this section, and establishing supplemental~~
582 ~~licensure fees for payment beginning May 1, 2018, sufficient to~~
583 ~~cover the costs of administering ss. 381.989 and 1004.4351. The~~
584 ~~department shall identify applicants with strong diversity plans~~
585 ~~reflecting this state's commitment to diversity and implement~~
586 ~~training programs and other educational programs to enable~~
587 ~~minority persons and minority business enterprises, as defined~~
588 ~~in s. 288.703, and veteran business enterprises, as defined in~~
589 ~~s. 295.187, to compete for medical marijuana treatment center~~
590 ~~licensure and contracts. Subject to the requirements in~~
591 ~~subparagraphs (a)2.-4., the department shall issue a license to~~
592 ~~an applicant if the applicant meets the requirements of this~~
593 ~~section and pays the initial application fee. The department~~
594 ~~shall renew the licensure of a medical marijuana treatment~~
595 ~~center biennially if the licensee meets the requirements of this~~
596 ~~section and pays the biennial renewal fee. An individual may not~~
597 ~~be an applicant, owner, officer, board member, or manager on~~
598 ~~more than one application for licensure as a medical marijuana~~
599 ~~treatment center. An individual or entity may not be awarded~~
600 ~~more than one license as a medical marijuana treatment center.~~

601 ~~An applicant for licensure as a medical marijuana treatment~~
602 ~~center must demonstrate:~~

603 ~~1. That, for the 5 consecutive years before submitting the~~
604 ~~application, the applicant has been registered to do business in~~
605 ~~the state.~~

606 ~~2. Possession of a valid certificate of registration~~
607 ~~issued by the Department of Agriculture and Consumer Services~~
608 ~~pursuant to s. 581.131.~~

609 ~~3. The technical and technological ability to cultivate~~
610 ~~and produce marijuana, including, but not limited to, low-THC~~
611 ~~cannabis.~~

612 ~~4. The ability to secure the premises, resources, and~~
613 ~~personnel necessary to operate as a medical marijuana treatment~~
614 ~~center.~~

615 ~~5. The ability to maintain accountability of all raw~~
616 ~~materials, finished products, and any byproducts to prevent~~
617 ~~diversion or unlawful access to or possession of these~~
618 ~~substances.~~

619 ~~6. An infrastructure reasonably located to dispense~~
620 ~~marijuana to registered qualified patients statewide or~~
621 ~~regionally as determined by the department.~~

622 ~~7. The financial ability to maintain operations for the~~
623 ~~duration of the 2-year approval cycle, including the provision~~
624 ~~of certified financial statements to the department.~~

625 ~~a. Upon approval, the applicant must post a \$5 million~~

626 ~~performance bond issued by an authorized surety insurance~~
627 ~~company rated in one of the three highest rating categories by a~~
628 ~~nationally recognized rating service. However, a medical~~
629 ~~marijuana treatment center serving at least 1,000 qualified~~
630 ~~patients is only required to maintain a \$2 million performance~~
631 ~~bond.~~

632 ~~b. In lieu of the performance bond required under sub-~~
633 ~~subparagraph a., the applicant may provide an irrevocable letter~~
634 ~~of credit payable to the department or provide cash to the~~
635 ~~department. If provided with cash under this sub-subparagraph,~~
636 ~~the department shall deposit the cash in the Grants and~~
637 ~~Donations Trust Fund within the Department of Health, subject to~~
638 ~~the same conditions as the bond regarding requirements for the~~
639 ~~applicant to forfeit ownership of the funds. If the funds~~
640 ~~deposited under this sub-subparagraph generate interest, the~~
641 ~~amount of that interest shall be used by the department for the~~
642 ~~administration of this section.~~

643 ~~8. That all owners, officers, board members, and managers~~
644 ~~have passed a background screening pursuant to subsection (9).~~

645 ~~9. The employment of a medical director to supervise the~~
646 ~~activities of the medical marijuana treatment center.~~

647 ~~10. A diversity plan that promotes and ensures the~~
648 ~~involvement of minority persons and minority business~~
649 ~~enterprises, as defined in s. 288.703, or veteran business~~
650 ~~enterprises, as defined in s. 295.187, in ownership, management,~~

651 ~~and employment. An applicant for licensure renewal must show the~~
652 ~~effectiveness of the diversity plan by including the following~~
653 ~~with his or her application for renewal:~~

654 ~~a. Representation of minority persons and veterans in the~~
655 ~~medical marijuana treatment center's workforce;~~

656 ~~b. Efforts to recruit minority persons and veterans for~~
657 ~~employment; and~~

658 ~~e. A record of contracts for services with minority~~
659 ~~business enterprises and veteran business enterprises.~~

660 ~~(c) A medical marijuana treatment center may not make a~~
661 ~~wholesale purchase of marijuana from, or a distribution of~~
662 ~~marijuana to, another medical marijuana treatment center, unless~~
663 ~~the medical marijuana treatment center seeking to make a~~
664 ~~wholesale purchase of marijuana submits proof of harvest failure~~
665 ~~to the department.~~

666 ~~(a)-(d)~~ Department responsibilities.—The department shall
667 do all of the following:

668 1. Adopt by rule all of the following:

669 a. Operating standards for the cultivation, processing,
670 packaging, and labeling of marijuana.

671 b. Standards for the sale of marijuana.

672 c. Procedures and requirements for all of the following:

673 (I) The registration and registration renewal of medical
674 marijuana treatment centers (MMTCs).

675 (II) The issuance and renewal of cultivation, processing,

676 retail, and transportation operating licenses.

677 (III) The issuance and renewal of cultivation, processing,
 678 dispensing, and storage facility permits and of vehicle permits.

679 (IV) The registration of all principals, employees, and
 680 contractors of an MMTC who will participate in the operations of
 681 the MMTC.

682 (V) The issuance of MMTC employee identification cards to
 683 registered principals, employees, and contractors of MMTCs.

684 2. Establish, maintain, and control a computer software
 685 tracking system that traces marijuana from seed to sale and
 686 allows real-time, 24-hour access by the department to data from
 687 all MMTCs ~~medical marijuana treatment centers~~ and marijuana
 688 testing laboratories. The tracking system must allow for
 689 integration of other seed-to-sale systems and, at a minimum,
 690 include notification of when marijuana seeds are planted, when
 691 marijuana plants are harvested and destroyed, and when marijuana
 692 is transported, sold, stolen, diverted, or lost. Each MMTC must
 693 ~~medical marijuana treatment center shall~~ use the seed-to-sale
 694 tracking system established by the department or integrate its
 695 own seed-to-sale tracking system with the seed-to-sale tracking
 696 system established by the department. Each MMTC ~~medical~~
 697 ~~marijuana treatment center~~ may use its own seed-to-sale system
 698 until the department establishes a seed-to-sale tracking system.
 699 The department may contract with a vendor to establish the seed-
 700 to-sale tracking system. The vendor selected by the department

701 may not have a contractual relationship with the department to
 702 perform any services pursuant to this section other than the
 703 seed-to-sale tracking system. The vendor may not have a direct
 704 or indirect financial interest in an MMTC ~~a medical marijuana~~
 705 ~~treatment center~~ or a marijuana testing laboratory.

706 (b) Registration.—

707 1. The department shall adopt by rule an MMTC registration
 708 form that requires, at a minimum, all of the following:

709 a. The applicant's full legal name.

710 b. The physical address of each location where the
 711 applicant will apply for a facility permit to cultivate,
 712 process, dispense, or store marijuana.

713 c. The name, address, and date of birth of the applicant's
 714 principals.

715 d. The name, address, and date of birth of the applicant's
 716 current employees and contractors who will participate in the
 717 operations of the MMTC.

718 e. The operation or operations in which the applicant
 719 intends to engage, which may include one or more of the
 720 following:

721 (I) Cultivation.

722 (II) Processing.

723 (III) Retail sales.

724 (IV) Transportation.

725 2. To be registered as an MMTC, an applicant must submit

726 all of the following to the department:

727 a. The applicant's completed registration form.

728 b. Personnel registration forms, as described in
729 subsection (9), for all principals, employees, and contractors
730 listed on the applicant's registration form who will participate
731 in the operations of the MMTC. The department may not register
732 the applicant as an MMTC until all principals, employees, and
733 contractors listed on the applicant's registration form have
734 registered with the department and are issued MMTC employee
735 identification cards.

736 c. Proof that all principals listed on the applicant's
737 registration form who will not participate in the operations of
738 the MMTC have passed a level 2 background screening pursuant to
739 chapter 435 within the previous year.

740 d. Proof that the MMTC has the capability to comply with
741 seed-to-sale tracking system requirements.

742 e. Proof of the applicant's financial ability to maintain
743 operations for the duration of the registration.

744 f. A \$500,000 performance and compliance bond, or a \$1
745 million performance and compliance bond if the MMTC intends to
746 cultivate or process marijuana, which will be forfeited if the
747 MMTC fails to comply with:

748 (I) Registration requirements in this subsection during
749 the registration period; or

750 (II) Material requirements of this section which are

751 applicable to the functions the applicant intends to perform, as
752 indicated on the registration form.

753 3. A registration expires 2 years after the date it is
754 issued.

755 4. In addition to obtaining registration pursuant to this
756 paragraph, an MMTC must obtain an operating license for each
757 operation it will perform as provided in paragraph (c),
758 paragraph (d), or paragraph (f), as applicable.

759 (c) Cultivation licenses and processing licenses.—

760 1. A registered MMTC may apply for a cultivation license
761 or a processing license. When applying, the MMTC shall provide
762 the department with, at a minimum, all of the following:

763 a. A completed cultivation license or processing license
764 application form.

765 b. The physical address of each location where marijuana
766 will be cultivated, processed, or stored.

767 c. As applicable to the requested license or licenses:

768 (I) Proof of an established infrastructure, or the ability
769 to establish an infrastructure in a reasonable amount of time,
770 which is designed for cultivation, processing, testing,
771 packaging, and labeling marijuana; maintaining the
772 infrastructure's security; and preventing the theft or diversion
773 of any marijuana.

774 (II) Proof that the applicant has the technical and
775 technological ability to cultivate and test or process and test

776 marijuana.

777 d. Proof of operating procedures designed to secure and
778 maintain accountability for all marijuana and marijuana-related
779 byproducts that come into the applicant's possession and to
780 comply with the required seed-to-sale tracking system.

781 2. Cultivation licenses and processing licenses expire 2
782 years after the date they are issued. To renew a license, the
783 licensee must meet all of the requirements for initial
784 licensure; must provide all of the documentation required under
785 subparagraph 1.; and must not have any uncorrected substantial
786 violations of the standards adopted by department rule for the
787 cultivation, processing, testing, packaging, and labeling of
788 marijuana.

789 3. Before beginning cultivation or processing at any
790 location, the licensee must obtain a facility permit from the
791 department for that location pursuant to paragraph (g).

792 4. A licensee under this subsection may use contractors to
793 assist with the cultivation or processing of marijuana, as
794 applicable, but the licensee is ultimately responsible for all
795 of the operations performed by each contractor relating to the
796 cultivation or processing of marijuana and is responsible for
797 maintaining physical possession of the marijuana at all times.
798 All work done by a contractor must be performed at a location
799 that has a facility permit issued by the department. A licensee
800 using a contractor must register any principal or employee of a

801 contractor who will be participating in the operations of the
802 licensee as provided in subsection (9). Such principal or
803 employee may not begin participating in the operations of the
804 licensee until he or she has received an MMTC employee
805 identification card from the department.

806 5. All marijuana byproducts that cannot be processed or
807 reprocessed must be destroyed by the cultivation licensee or the
808 processing licensee or their respective contractors within 30
809 days after the production of the byproducts.

810 6. A licensee under this subsection may wholesale
811 marijuana only to other registered MMTCs. Before wholesaling
812 marijuana, the wholesaling MMTC shall provide the purchasing
813 MMTC with documentation showing that the marijuana meets the
814 testing, packaging, and labeling requirements of this section.
815 The purchasing MMTC shall review such documentation to determine
816 that the marijuana is in compliance with this section before
817 taking possession of the marijuana.

818 7. Transportation or delivery of marijuana outside of the
819 property owned by a licensee under this subsection may be
820 performed only by an MMTC that holds a transportation license
821 issued pursuant to paragraph (f).

822 ~~(c) A licensed medical marijuana treatment center shall~~
823 ~~cultivate, process, transport, and dispense marijuana for~~
824 ~~medical use. A licensed medical marijuana treatment center may~~
825 ~~not contract for services directly related to the cultivation,~~

826 ~~processing, and dispensing of marijuana or marijuana delivery~~
827 ~~devices, except that a medical marijuana treatment center~~
828 ~~licensed pursuant to subparagraph (a)1. may contract with a~~
829 ~~single entity for the cultivation, processing, transporting, and~~
830 ~~dispensing of marijuana and marijuana delivery devices. A~~
831 ~~licensed medical marijuana treatment center must, at all times,~~
832 ~~maintain compliance with the criteria demonstrated and~~
833 ~~representations made in the initial application and the criteria~~
834 ~~established in this subsection. Upon request, the department may~~
835 ~~grant a medical marijuana treatment center a variance from the~~
836 ~~representations made in the initial application. Consideration~~
837 ~~of such a request shall be based upon the individual facts and~~
838 ~~circumstances surrounding the request. A variance may not be~~
839 ~~granted unless the requesting medical marijuana treatment center~~
840 ~~can demonstrate to the department that it has a proposed~~
841 ~~alternative to the specific representation made in its~~
842 ~~application which fulfills the same or a similar purpose as the~~
843 ~~specific representation in a way that the department can~~
844 ~~reasonably determine will not be a lower standard than the~~
845 ~~specific representation in the application. A variance may not~~
846 ~~be granted from the requirements in subparagraph 2. and~~
847 ~~subparagraphs (b)1. and 2.~~

848 ~~1. A licensed medical marijuana treatment center may~~
849 ~~transfer ownership to an individual or entity who meets the~~
850 ~~requirements of this section. A publicly traded corporation or~~

851 ~~publicly traded company that meets the requirements of this~~
852 ~~section is not precluded from ownership of a medical marijuana~~
853 ~~treatment center. To accommodate a change in ownership:~~

854 ~~a. The licensed medical marijuana treatment center shall~~
855 ~~notify the department in writing at least 60 days before the~~
856 ~~anticipated date of the change of ownership.~~

857 ~~b. The individual or entity applying for initial licensure~~
858 ~~due to a change of ownership must submit an application that~~
859 ~~must be received by the department at least 60 days before the~~
860 ~~date of change of ownership.~~

861 ~~e. Upon receipt of an application for a license, the~~
862 ~~department shall examine the application and, within 30 days~~
863 ~~after receipt, notify the applicant in writing of any apparent~~
864 ~~errors or omissions and request any additional information~~
865 ~~required.~~

866 ~~d. Requested information omitted from an application for~~
867 ~~licensure must be filed with the department within 21 days after~~
868 ~~the department's request for omitted information or the~~
869 ~~application shall be deemed incomplete and shall be withdrawn~~
870 ~~from further consideration and the fees shall be forfeited.~~

871
872 ~~Within 30 days after the receipt of a complete application, the~~
873 ~~department shall approve or deny the application.~~

874 ~~2. A medical marijuana treatment center, and any~~
875 ~~individual or entity who directly or indirectly owns, controls,~~

876 ~~or holds with power to vote 5 percent or more of the voting~~
877 ~~shares of a medical marijuana treatment center, may not acquire~~
878 ~~direct or indirect ownership or control of any voting shares or~~
879 ~~other form of ownership of any other medical marijuana treatment~~
880 ~~center.~~

881 ~~3. A medical marijuana treatment center may not enter into~~
882 ~~any form of profit-sharing arrangement with the property owner~~
883 ~~or lessor of any of its facilities where cultivation,~~
884 ~~processing, storing, or dispensing of marijuana and marijuana~~
885 ~~delivery devices occurs.~~

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

889 ~~5. Each medical marijuana treatment center must adopt and~~
890 ~~enforce policies and procedures to ensure employees and~~
891 ~~volunteers receive training on the legal requirements to~~
892 ~~dispense marijuana to qualified patients.~~

893 ~~8.6. When growing marijuana, an MMTC licensed for~~
894 ~~cultivation a medical marijuana treatment center:~~

895 ~~a. May use pesticides determined by the department, after~~
896 ~~consultation with the Department of Agriculture and Consumer~~
897 ~~Services, to be safely applied to plants intended for human~~
898 ~~consumption, but may not use pesticides designated as~~
899 ~~restricted-use pesticides pursuant to s. 487.042.~~

900 ~~b. Shall ~~Must~~ grow marijuana within an enclosed permitted~~

901 cultivation facility ~~structure~~ and in a room separate from any
902 other plant.

903 c. Shall ~~Must~~ inspect seeds and growing plants for plant
904 pests that endanger or threaten the horticultural and
905 agricultural interests of the state in accordance with chapter
906 581 and any rules adopted thereunder.

907 d. Shall ~~Must~~ perform fumigation or treatment of plants,
908 or remove and destroy infested or infected plants, in accordance
909 with chapter 581 and any rules adopted thereunder.

910 ~~7. Each medical marijuana treatment center must produce
911 and make available for purchase at least one low-THC cannabis
912 product.~~

913 ~~9.8. An MMTC A medical marijuana treatment center that
914 produces edibles must hold a permit to operate as a food
915 establishment pursuant to chapter 500, the Florida Food Safety
916 Act, and must comply with all the requirements for food
917 establishments pursuant to chapter 500 and any rules adopted
918 thereunder. Edibles may not contain more than 200 milligrams of
919 tetrahydrocannabinol, and a single serving portion of an edible
920 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles
921 may have a tetrahydrocannabinol potency variance of no greater
922 than 15 percent. Edibles may not be attractive to children; be
923 manufactured in the shape of humans, cartoons, or animals; be
924 manufactured in a form that bears any reasonable resemblance to
925 products available for consumption as commercially available~~

926 candy; or contain any color additives. To discourage consumption
927 of edibles by children, the department shall determine by rule
928 any shapes, forms, and ingredients allowed and prohibited for
929 edibles. MMTCs ~~Medical marijuana treatment centers~~ may not begin
930 processing or dispensing edibles until after the effective date
931 of the rule. The department shall also adopt sanitation rules
932 providing the standards and requirements for the storage,
933 display, or dispensing of edibles.

934 ~~9. Within 12 months after licensure, a medical marijuana~~
935 ~~treatment center must demonstrate to the department that all of~~
936 ~~its processing facilities have passed a Food Safety Good~~
937 ~~Manufacturing Practices, such as Global Food Safety Initiative~~
938 ~~or equivalent, inspection by a nationally accredited certifying~~
939 ~~body. A medical marijuana treatment center must immediately stop~~
940 ~~processing at any facility which fails to pass this inspection~~
941 ~~until it demonstrates to the department that such facility has~~
942 ~~met this requirement.~~

943 ~~10. A medical marijuana treatment center that produces~~
944 ~~prerolled marijuana cigarettes may not use wrapping paper made~~
945 ~~with tobacco or hemp.~~

946 10.11. When processing marijuana, an MMTC licensed for
947 processing shall ~~a medical marijuana treatment center must:~~

948 a. Process the marijuana within an enclosed permitted
949 processing facility ~~structure~~ and in a room separate from other
950 plants or products.

951 b. Comply with department rules when processing marijuana
952 with hydrocarbon solvents or other solvents or gases exhibiting
953 potential toxicity to humans. The department shall determine by
954 rule the requirements for the ~~medical marijuana treatment~~
955 ~~centers to use~~ of such solvents or gases by MMTCs ~~exhibiting~~
956 ~~potential toxicity to humans.~~

957 c. Comply with federal and state laws and regulations and
958 department rules for solid and liquid wastes. The department
959 shall determine by rule procedures for the storage, handling,
960 transportation, management, and disposal of solid and liquid
961 waste generated during marijuana production and processing. The
962 Department of Environmental Protection shall assist the
963 department in developing such rules.

964 d. Test the processed marijuana using a medical marijuana
965 testing laboratory before it is sold or dispensed. Results must
966 be verified and signed by two MMTC ~~medical marijuana treatment~~
967 ~~center~~ employees. Before selling, wholesaling, or dispensing,
968 the MMTC shall ~~medical marijuana treatment center must~~ determine
969 that the test results indicate that low-THC cannabis meets the
970 definition of low-THC cannabis, the concentration of
971 tetrahydrocannabinol meets the potency requirements of this
972 section, the labeling of the concentration of
973 tetrahydrocannabinol and cannabidiol is accurate, and all
974 marijuana is safe for human consumption and free from
975 contaminants that are unsafe for human consumption. The

976 department shall determine by rule which contaminants must be
 977 tested for and the maximum levels of each contaminant which are
 978 safe for human consumption. The Department of Agriculture and
 979 Consumer Services shall assist the department in developing the
 980 testing requirements for contaminants that are unsafe for human
 981 consumption in edibles. The department shall also determine by
 982 rule the procedures for the treatment of marijuana that fails to
 983 meet the testing requirements of this section, s. 381.988, or
 984 department rule. The department may select a random sample from
 985 edibles available for purchase in a dispensing facility, which
 986 must ~~shall~~ be tested by the department to determine that the
 987 edible meets the potency requirements of this section and~~,~~ is
 988 safe for human consumption~~,~~ and that the labeling of the
 989 tetrahydrocannabinol and cannabidiol concentration is accurate.
 990 An MMTC ~~A medical marijuana treatment center~~ may not require
 991 payment from the department for the sample. An MMTC shall ~~A~~
 992 ~~medical marijuana treatment center~~ ~~must~~ recall edibles,
 993 including all edibles made from the same batch of marijuana,
 994 which fail to meet the potency requirements of this section,
 995 which are unsafe for human consumption, or for which the
 996 labeling of the tetrahydrocannabinol and cannabidiol
 997 concentration is inaccurate. An MMTC shall ~~The medical marijuana~~
 998 ~~treatment center~~ ~~must~~ retain records of all testing and samples
 999 of each homogenous batch of marijuana for at least 9 months. An
 1000 MMTC shall ~~The medical marijuana treatment center~~ ~~must~~ contract

1001 with a marijuana testing laboratory to perform audits on the
 1002 MMTC's ~~medical marijuana treatment center's~~ standard operating
 1003 procedures, testing records, and samples and provide the results
 1004 to the department to confirm that the marijuana or low-THC
 1005 cannabis meets the requirements of this section and that the
 1006 marijuana or low-THC cannabis is safe for human consumption. An
 1007 MMTC ~~A medical marijuana treatment center~~ shall reserve two
 1008 processed samples from each batch and retain such samples for at
 1009 least 9 months for the purpose of such audits. An MMTC ~~A medical~~
 1010 ~~marijuana treatment center~~ may use a laboratory that has not
 1011 been certified by the department under s. 381.988 until such
 1012 time as at least one laboratory holds the required
 1013 certification, ~~but in no event later than July 1, 2018.~~

1014 e. Package the marijuana in compliance with the United
 1015 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.
 1016 1471 et seq.

1017 f. Package the marijuana in a receptacle that has a firmly
 1018 affixed and legible label stating the following information:

1019 (I) That the marijuana or low-THC cannabis meets the
 1020 requirements of sub-subparagraph d.

1021 (II) The name of the MMTC ~~medical marijuana treatment~~
 1022 ~~center~~ from which the marijuana originates.

1023 (III) The batch number and harvest number from which the
 1024 marijuana originates and the date that the marijuana is sold or
 1025 dispensed.

1026 (IV) ~~The name of the physician who issued the physician~~
 1027 ~~certification.~~
 1028 ~~(V) The name of the patient.~~
 1029 ~~(VI)~~ The product name, if applicable, and dosage form,
 1030 including concentration of tetrahydrocannabinol and cannabidiol.
 1031 The product name may not contain wording commonly associated
 1032 with products marketed by or to children.
 1033 (V) ~~(VII)~~ The recommended dose.
 1034 (VI) ~~(VIII)~~ A warning that it is illegal to transfer
 1035 ~~medical~~ marijuana to a ~~another~~ person younger than 21 years of
 1036 age.
 1037 (VII) ~~(IX)~~ A marijuana universal symbol developed by the
 1038 department.
 1039 11.12. The MMTC that packages the marijuana ~~medical~~
 1040 ~~marijuana treatment center~~ shall include in each package an a
 1041 ~~patient package~~ insert with information on the specific product
 1042 dispensed related to all of the following:
 1043 a. Clinical pharmacology.
 1044 b. Indications and use.
 1045 c. Dosage and administration.
 1046 d. Dosage forms and strengths.
 1047 e. Contraindications.
 1048 f. Warnings and precautions.
 1049 g. Adverse reactions.
 1050 12.13. In addition to the packaging and labeling

1051 requirements specified in subparagraphs 10. and 11. and 12.,
1052 marijuana in a form for smoking must be packaged in a sealed
1053 receptacle with a legible and prominent warning to keep the
1054 receptacle away from children and a warning that states that
1055 marijuana smoke contains carcinogens and may negatively affect
1056 health. Such receptacles for marijuana in a form for smoking
1057 must be plain, opaque, and white without depictions of the
1058 product or images other than the MMTC's ~~medical-marijuana~~
1059 ~~treatment-center's~~ department-approved logo and the marijuana
1060 universal symbol.

1061 13.14. The department shall adopt rules to regulate the
1062 types, appearance, and labeling of marijuana delivery devices
1063 dispensed from an MMTC ~~a medical-marijuana treatment-center~~. The
1064 rules must require marijuana delivery devices to have an
1065 appearance consistent with medical use.

1066 14.15. Each edible must ~~shall~~ be individually sealed in
1067 plain, opaque wrapping marked only with the marijuana universal
1068 symbol. ~~Where practical,~~ Each edible must ~~shall~~ be marked with
1069 the marijuana universal symbol. In addition to the packaging and
1070 labeling requirements in subparagraphs 10. and 11. and 12.,
1071 edible receptacles must be plain, opaque, and white without
1072 depictions of the product or images other than the MMTC's
1073 ~~medical-marijuana treatment-center's~~ department-approved logo
1074 and the marijuana universal symbol. The receptacle must also
1075 include a list of all the edible's ingredients, storage

1076 | instructions, information on the estimated amount of time for
 1077 | the edible to take effect, an expiration date, a legible and
 1078 | prominent warning to keep the receptacle away from children and
 1079 | pets, and a warning that the edible has not been produced or
 1080 | inspected pursuant to federal food safety laws.

1081 | (d) Retail licenses.-

1082 | 1. A registered MMTC may apply for a retail license. When
 1083 | applying, the MMTC must provide the department with, at a
 1084 | minimum, all of the following:

1085 | a. A completed retail license application form.

1086 | b. A statement by the applicant which indicates whether
 1087 | the applicant intends to dispense by delivery. A retail licensee
 1088 | may not deliver marijuana without also obtaining a
 1089 | transportation license pursuant to paragraph (f).

1090 | c. The physical address of each location where the
 1091 | applicant will dispense or store marijuana.

1092 | d. Identifying information for all other current or
 1093 | previous retail licenses held by the applicant or any of the
 1094 | applicant's principals.

1095 | e. Proof of operating procedures designed to secure and
 1096 | maintain accountability for all marijuana that the applicant
 1097 | receives and possesses, to ensure that only the allowed amount
 1098 | of marijuana is sold or dispensed, to ensure that the specified
 1099 | type of marijuana is correctly dispensed to a qualified patient
 1100 | or his or her caregiver pursuant to a physician certification,

1101 and to monitor the medical marijuana patient registry and
1102 electronically update the registry with dispensing information.

1103 2. A retail license expires 2 years after the date it is
1104 issued. The retail licensee must apply for license renewal
1105 before the expiration date. To renew a license, a retail
1106 licensee must meet all of the requirements for initial
1107 licensure; must provide all of the documents required under
1108 paragraph (b); and must not have any outstanding substantial
1109 violations of the applicable standards adopted by department
1110 rule.

1111 3. Before beginning to sell, dispense, or store marijuana,
1112 the licensee shall obtain a facility permit from the department
1113 for each location where marijuana will be sold, dispensed, or
1114 stored. If a facility's permit expires or is suspended or
1115 revoked, the MMTC must cease all applicable operations at that
1116 facility until the department inspects the facility and renews
1117 or reinstates the facility's permit.

1118 4. A dispensing facility may not repackage or modify
1119 marijuana that has already been packaged for sale by a
1120 cultivation licensee or processing licensee, unless the
1121 repackaging is of unprocessed marijuana, is done in accordance
1122 with instructions from the cultivator or processor, and is
1123 documented in the required seed-to-sale tracking system.

1124 5. A retail licensee may contract with an MMTC that has a
1125 transportation license to transport marijuana between properties

1126 owned by the retail licensee, to deliver the marijuana for sale
 1127 or dispensing, and to pick up returns of marijuana.

1128 6. Onsite consumption or administration of marijuana at a
 1129 dispensing facility is prohibited.

1130 7.16. When dispensing marijuana or a marijuana delivery
 1131 device, an MMTC licensed for retail ~~a medical marijuana~~
 1132 ~~treatment center:~~

1133 a. May dispense any active, valid order for low-THC
 1134 cannabis, medical cannabis and cannabis delivery devices issued
 1135 pursuant to former s. 381.986, Florida Statutes 2016, which was
 1136 entered into the medical marijuana use registry before July 1,
 1137 2017.

1138 b. May not dispense more than one ~~a~~ 70-day supply of
 1139 marijuana within any 70-day period to a qualified patient or
 1140 caregiver and ~~may not dispense more than one 35-day supply of~~
 1141 marijuana in a form for smoking within any 35-day period to a
 1142 qualified patient or caregiver. A 35-day supply of marijuana in
 1143 a form for smoking may not exceed 2.5 ounces unless an exception
 1144 to this amount is approved by the department pursuant to
 1145 paragraph (4) (f).

1146 c. Shall require ~~Must have the MMTC's medical marijuana~~
 1147 ~~treatment center's~~ employee who dispenses the marijuana or a
 1148 marijuana delivery device to enter into the medical marijuana
 1149 use registry his or her name or unique employee identifier.

1150 d. When dispensing to a qualified patient or caregiver,

1151 shall ~~must~~ verify that the qualified patient and, if applicable,
1152 the caregiver, ~~if applicable,~~ each have an active registration
1153 in the medical marijuana use registry and an active and valid
1154 medical marijuana use registry identification card; that, the
1155 amount and type of marijuana dispensed matches the physician
1156 certification in the medical marijuana use registry for that
1157 qualified patient; ~~and~~ and that the physician certification has not
1158 already been filled.

1159 e. When dispensing to a qualified patient or caregiver,
1160 shall label the marijuana or the marijuana delivery device with
1161 the name of the physician who issued the physician certification
1162 and the name of the patient for whom the certification was
1163 issued before it is dispensed.

1164 ~~f.e.~~ May not dispense marijuana to a qualified patient who
1165 is younger than 18 years of age. If the qualified patient is
1166 younger than 18 years of age, marijuana may ~~only~~ be dispensed
1167 only to the qualified patient's caregiver.

1168 g. May sell marijuana to an adult 21 years of age or older
1169 pursuant to s. 381.990, provided that the MMTC is registered
1170 with the Department of Business and Professional Regulation
1171 pursuant to that section. When selling marijuana pursuant to
1172 that section, the employee selling the marijuana must determine
1173 that the appearance of the buyer is such that a prudent person
1174 would believe the buyer to be 21 years of age or older or must
1175 carefully check the buyer's driver license, identification card

1176 issued by this state or another state of the United States,
1177 passport, or United States Armed Services identification card to
1178 determine the buyer's age. Other than for the purpose of
1179 determining a buyer's age, an MMTC may not request or store any
1180 personal information provided by the buyer.

1181 ~~h.f.~~ May not dispense or sell any ~~other type of cannabis,~~
1182 ~~alcohol, or illicit drug-related product, including pipes or~~
1183 ~~wrapping papers made with tobacco or hemp, other than a~~
1184 ~~marijuana delivery device required for the medical use of~~
1185 ~~marijuana and which is specified in a physician certification.~~

1186 ~~i.g.~~ Must, Upon dispensing the marijuana or marijuana
1187 delivery device to a qualified patient or caregiver, shall
1188 record in the registry the date, time, quantity, and form of
1189 marijuana dispensed; the type of marijuana delivery device
1190 dispensed; and the name and medical marijuana use registry
1191 identification number of the qualified patient or caregiver to
1192 whom the marijuana delivery device was dispensed.

1193 ~~j.h.~~ Shall ~~Must~~ ensure that patient records are not
1194 visible to anyone other than the qualified patient, his or her
1195 caregiver, and authorized MMTC ~~medical marijuana treatment~~
1196 ~~center~~ employees.

1197 ~~(e)-(f)~~ Security.—To ensure the safety and security of
1198 premises where the cultivation, processing, storing, or
1199 dispensing of marijuana occurs, and to maintain adequate
1200 controls against the diversion, theft, and loss of marijuana or

1201 marijuana delivery devices, an MMTC ~~a medical marijuana~~
 1202 ~~treatment center~~ shall do all of the following:

1203 1.a. Maintain a fully operational security alarm system
 1204 that secures all entry points and perimeter windows and is
 1205 equipped with motion detectors; pressure switches; and duress,
 1206 panic, and hold-up alarms. ~~;~~ ~~and~~

1207 b. Maintain a video surveillance system that records
 1208 continuously, 24 hours a day, and meets all of the following
 1209 criteria:

1210 (I) Cameras are fixed in a place that allows for the clear
 1211 identification of persons and activities in controlled areas of
 1212 the premises. Controlled areas include grow rooms, processing
 1213 rooms, storage rooms, disposal rooms or areas, and point-of-sale
 1214 rooms.

1215 (II) Cameras are fixed in entrances and exits to the
 1216 premises in a place that allows recording, ~~which shall record~~
 1217 from both indoor and outdoor, or ingress and egress, vantage
 1218 points.

1219 (III) Produces recorded images that ~~must~~ clearly and
 1220 accurately display the time and date of recording.

1221 ~~c. (IV)~~ Retain video surveillance recordings for at least
 1222 45 days or longer upon the request of a law enforcement agency.

1223 2. Ensure that the MMTC's ~~medical marijuana treatment~~
 1224 ~~center's~~ outdoor premises have sufficient lighting from dusk
 1225 until dawn.

1226 3. Ensure that the indoor premises where dispensing occurs
 1227 include ~~includes~~ a waiting area with sufficient space and
 1228 seating to accommodate qualified patients and caregivers and at
 1229 least one private consultation area that is isolated from the
 1230 waiting area and the area where dispensing occurs. An MMTC ~~A~~
 1231 ~~medical marijuana treatment center~~ may not display products or
 1232 dispense marijuana or marijuana delivery devices in the waiting
 1233 area.

1234 4. Cease dispensing ~~Not dispense from its premises~~
 1235 marijuana or ~~a~~ marijuana delivery devices from its premises
 1236 ~~device~~ between the hours of 11 p.m. ~~9 p.m.~~ and 7 a.m., but may
 1237 perform all other operations and deliver marijuana to qualified
 1238 patients 24 hours a day.

1239 5. Store marijuana in a secured, locked room or a vault.

1240 6. Require at least two of its employees, or two employees
 1241 of a security agency with whom it contracts, to be on the
 1242 premises ~~at all times~~ where cultivation, processing, or storing
 1243 of marijuana occurs, at all times.

1244 7. Require each employee or contractor to wear a photo
 1245 identification badge at all times while on the premises.

1246 8. Require each visitor to wear a visitor pass at all
 1247 times while on the premises.

1248 9. Implement an alcohol and drug-free workplace policy.

1249 10. Report to a local law enforcement agency within 24
 1250 hours after the MMTC ~~medical marijuana treatment center~~ is

1251 notified or becomes aware of the theft, diversion, or loss of
 1252 marijuana.

1253 (f) Transportation licenses; vehicle permits.-

1254 1. A registered MMTC may apply for a transportation
 1255 license. When applying, the MMTC shall provide the department
 1256 with, at a minimum, all of the following:

1257 a. The physical address of the MMTC's place of business.

1258 b. Proof that the MMTC has a documentation system in
 1259 accordance with the required seed-to-sale tracking system,
 1260 including transportation manifests, for transporting marijuana
 1261 between licensed facilities and to qualified patients.

1262 Transportation manifests may be electronically stored and
 1263 presented.

1264 c. Proof of the MMTC's compliance with health and
 1265 sanitation standards for the transportation of marijuana.

1266 d. Proof that all marijuana transported between licensed
 1267 facilities will be transported in tamper-evident shipping
 1268 containers.

1269 2. An MMTC with a transportation license may not transport
 1270 marijuana on the property of an airport, a seaport, a spaceport,
 1271 or any property of the Federal Government.

1272 3. An MMTC with a transportation license may transport
 1273 marijuana and marijuana delivery devices only in a vehicle that
 1274 is owned or leased by the MMTC or the MMTC's contractor and for
 1275 which a valid vehicle permit has been issued by the department.

1276 4. An MMTC with a transportation license may obtain a
1277 vehicle permit upon submission of an application. The MMTC must
1278 designate as the driver for each permitted vehicle an employee
1279 or contracted employee who is registered with the department and
1280 who is authorized to possess marijuana when not on the property
1281 of the MMTC. Such designation must be displayed in the vehicle
1282 at all times. Each permitted vehicle must be GPS monitored. A
1283 vehicle permit remains valid and does not expire unless the MMTC
1284 or its contractor disposes of the permitted vehicle or the
1285 MMTC's registration or transportation license is transferred,
1286 canceled, not renewed, or revoked by the department. The
1287 department shall cancel a vehicle permit upon the request of the
1288 MMTC or its contractor.

1289 5. When transporting marijuana, a permitted vehicle is
1290 subject to inspection and search without a search warrant by
1291 authorized employees of the department, sheriffs, deputy
1292 sheriffs, police officers, or other law enforcement officers to
1293 determine that the MMTC is operating in compliance with this
1294 section.

1295 6. An MMTC with a transportation license may deliver, or
1296 contract for the delivery of, marijuana and marijuana delivery
1297 devices to other MMTCs, to qualified patients and caregivers
1298 within this state, and to adults 21 years of age or older within
1299 this state. A county or municipality may not prohibit deliveries
1300 of marijuana and marijuana delivery devices to qualified

1301 patients or caregivers within the county or municipality.
1302 Deliveries may be made only to the qualified patient who placed
1303 the order or his or her caregiver. When delivering to a
1304 qualified patient or caregiver, an MMTC or its contractor shall
1305 verify the identity of the qualified patient upon placement of
1306 the delivery order and, again, upon delivery. When delivering
1307 marijuana to an adult 21 years of age or older, an MMTC or its
1308 contractor shall verify the age of the buyer upon placement of
1309 the order and, again, upon delivery. In order to verify the age
1310 of the buyer, the MMTC must determine that the appearance of the
1311 buyer is such that a prudent person would believe the buyer to
1312 be 21 years of age or older or must carefully check the buyer's
1313 driver license, identification card issued by this state or
1314 another state of the United States, passport, or United States
1315 Armed Services identification card to determine the buyer's age.
1316 The department shall adopt rules specific to the delivery of
1317 marijuana which include both of the following:
1318 a. Procedures for verifying the age and identity of the
1319 person placing the order for and receiving a delivery, as
1320 appropriate, including required training for delivery personnel.
1321 b. A maximum dispensary value for all marijuana and
1322 currency that may be in the possession of a registered MMTC
1323 employee or contractor while he or she makes a delivery. The
1324 maximum value established by rule may not be less than \$5,000.
1325 7. Licensees under this subsection may use contractors to

1326 assist with the transportation of marijuana, but the licensee is
1327 ultimately responsible for all of the actions and operations of
1328 each contractor relating to the transportation of marijuana and
1329 must know the location of all marijuana products at all times.
1330 To participate in the operations of a licensee under this
1331 subsection, a principal or employee of a contractor contracted
1332 by the licensee must first register with the department under
1333 subsection (9) and be issued an MMTC employee identification
1334 card.

1335 (g) Facility permits.—

1336 1. Before cultivating, processing, dispensing, or storing
1337 marijuana at any location, an MMTC shall apply to the department
1338 for the applicable facility permit for that facility. The
1339 department shall adopt by rule an application form. Upon
1340 receiving a request for a permit from a licensee, the department
1341 shall inspect the facility for compliance with this section and
1342 rules adopted hereunder, and, upon a determination of
1343 compliance, shall issue a permit to the facility. The department
1344 shall issue or deny a facility permit within 30 days after
1345 receiving the request for the permit.

1346 2. A facility permit expires 2 years after the date it is
1347 issued. Each facility must be inspected by the department for
1348 compliance with this section and department rules before the
1349 facility's permit is renewed.

1350 3. If a facility permit expires or is suspended or

1351 revoked, the MMTC must cease all applicable operations at that
 1352 facility until the department inspects the facility and renews
 1353 or reinstates the facility's permit.

1354 4. Cultivation facilities and processing facilities:

1355 a. Shall maintain insurance with at least \$1 million of
 1356 hazard and liability insurance per location; and

1357 b. Must be secure, closed to the public, and, unless an
 1358 ordinance allows the facility to be located closer, located at
 1359 least 1,000 feet away from any existing public or private
 1360 elementary or secondary school, a child care facility as defined
 1361 in s. 402.302, or a licensed service provider offering substance
 1362 abuse services.

1363 5. All matters regarding the permitting and regulation of
 1364 cultivation facilities and processing facilities, including the
 1365 location of such facilities, are preempted to the state.

1366 6. Dispensing facilities and storage facilities:

1367 a. Shall maintain insurance with at least \$500,000 of
 1368 hazard and liability insurance for each facility where marijuana
 1369 is dispensed or stored; and

1370 b. Unless an ordinance allows the facility to be located
 1371 closer, must be located at least 1,000 feet away from any
 1372 existing public or private elementary or secondary school, child
 1373 care facility as defined in s. 402.302, or licensed service
 1374 provider offering substance abuse services.

1375 7. The governing body of a county or municipality, by

1376 ordinance, may prohibit or limit the number of dispensing
1377 facilities located within its jurisdiction but may not prohibit
1378 an MMTC with a retail license or its permitted storage facility
1379 from being located within its jurisdiction if the licensee is
1380 delivering or contracting to deliver marijuana within that
1381 jurisdiction. The department may not issue a facility permit for
1382 a dispensing facility in a county or municipality in which the
1383 board of county commissioners or other local governing body, as
1384 applicable, has adopted such an ordinance. A county or
1385 municipality may not require, request, or accept financial
1386 contributions or similar benefits from MMTCs, but, in addition
1387 to other taxes authorized by law, a county or municipality may
1388 levy a local business tax on a dispensing facility. An ordinance
1389 adopted by a municipality or county pursuant to this paragraph
1390 may not do any of the following:

1391 a. Provide exclusive access to one or several individuals
1392 or entities to operate dispensing facilities within the
1393 jurisdiction.

1394 b. Prohibit specific individuals or entities from
1395 operating a dispensing facility within the jurisdiction if the
1396 ordinance allows dispensing facilities to operate in the
1397 jurisdiction.

1398 c. Prohibit the delivery of marijuana within the
1399 jurisdiction by a properly licensed MMTC located within the
1400 jurisdiction.

1401 8. The department may adopt by rule additional
 1402 requirements for the permitting of cultivation, processing,
 1403 dispensing, and storage facilities to ensure the sanitary, safe,
 1404 and secure cultivation, processing, dispensing, storage, and
 1405 sale of marijuana.

1406 ~~To ensure the safe transport of marijuana and marijuana~~
 1407 ~~delivery devices to medical marijuana treatment centers,~~
 1408 ~~marijuana testing laboratories, or qualified patients, a medical~~
 1409 ~~marijuana treatment center must:~~

1410 ~~1. Maintain a marijuana transportation manifest in any~~
 1411 ~~vehicle transporting marijuana. The marijuana transportation~~
 1412 ~~manifest must be generated from a medical marijuana treatment~~
 1413 ~~center's seed-to-sale tracking system and include the:~~

1414 ~~a. Departure date and approximate time of departure.~~

1415 ~~b. Name, location address, and license number of the~~
 1416 ~~originating medical marijuana treatment center.~~

1417 ~~c. Name and address of the recipient of the delivery.~~

1418 ~~d. Quantity and form of any marijuana or marijuana~~
 1419 ~~delivery device being transported.~~

1420 ~~e. Arrival date and estimated time of arrival.~~

1421 ~~f. Delivery vehicle make and model and license plate~~
 1422 ~~number.~~

1423 ~~g. Name and signature of the medical marijuana treatment~~
 1424 ~~center employees delivering the product.~~

1425 ~~(I) A copy of the marijuana transportation manifest must~~

1426 ~~be provided to each individual, medical marijuana treatment~~
1427 ~~center, or marijuana testing laboratory that receives a~~
1428 ~~delivery. The individual, or a representative of the center or~~
1429 ~~laboratory, must sign a copy of the marijuana transportation~~
1430 ~~manifest acknowledging receipt.~~

1431 ~~(II) An individual transporting marijuana or a marijuana~~
1432 ~~delivery device must present a copy of the relevant marijuana~~
1433 ~~transportation manifest and his or her employee identification~~
1434 ~~card to a law enforcement officer upon request.~~

1435 ~~(III) Medical marijuana treatment centers and marijuana~~
1436 ~~testing laboratories must retain copies of all marijuana~~
1437 ~~transportation manifests for at least 3 years.~~

1438 ~~2. Ensure only vehicles in good working order are used to~~
1439 ~~transport marijuana.~~

1440 ~~3. Lock marijuana and marijuana delivery devices in a~~
1441 ~~separate compartment or container within the vehicle.~~

1442 ~~4. Require employees to have possession of their employee~~
1443 ~~identification card at all times when transporting marijuana or~~
1444 ~~marijuana delivery devices.~~

1445 ~~5. Require at least two persons to be in a vehicle~~
1446 ~~transporting marijuana or marijuana delivery devices, and~~
1447 ~~require at least one person to remain in the vehicle while the~~
1448 ~~marijuana or marijuana delivery device is being delivered.~~

1449 ~~6. Provide specific safety and security training to~~
1450 ~~employees transporting or delivering marijuana and marijuana~~

1451 ~~delivery devices.~~

1452 (h) Advertising.—~~An MMTC A medical marijuana treatment~~
 1453 ~~center~~ may not engage in advertising that is visible to members
 1454 of the public from any street, sidewalk, park, or other public
 1455 place, except:

1456 1. An MMTC dispensing facility ~~The dispensing location of~~
 1457 ~~A medical marijuana treatment center~~ may have a sign that is
 1458 affixed to the outside or hanging in the window of the premises
 1459 which identifies the dispensing facility ~~dispensary~~ by the
 1460 licensee's business name, a department-approved trade name, or a
 1461 department-approved logo. An MMTC's ~~A medical marijuana~~
 1462 ~~treatment center's~~ trade name and logo may not contain wording
 1463 or images commonly associated with marketing targeted toward
 1464 children ~~or which promote recreational use of marijuana.~~

1465 2. An MMTC ~~A medical marijuana treatment center~~ may engage
 1466 in Internet advertising and marketing under the following
 1467 conditions:

1468 a. All advertisements must be approved by the department.

1469 b. An advertisement may not have any content that
 1470 specifically targets individuals under the age of 18, including
 1471 cartoon characters or similar images.

1472 c. An advertisement may not be an unsolicited pop-up
 1473 advertisement.

1474 d. Opt-in marketing must include an easy and permanent
 1475 opt-out feature.

1476 (i) Online retail catalogs.—Each retail MMTC ~~medical~~
 1477 ~~marijuana treatment center~~ that dispenses marijuana and
 1478 marijuana delivery devices shall make all of the following
 1479 available to the public on its website:

1480 1. Each marijuana and low-THC product available for
 1481 purchase, including the form, strain of marijuana from which it
 1482 was extracted, cannabidiol content, tetrahydrocannabinol
 1483 content, dose unit, total number of doses available, and the
 1484 ratio of cannabidiol to tetrahydrocannabinol for each product.

1485 2. The price for a 30-day, 50-day, and 70-day supply at a
 1486 standard dose for each marijuana and low-THC product available
 1487 for purchase.

1488 3. The price for each marijuana delivery device available
 1489 for purchase.

1490 4. If applicable, any discount policies and eligibility
 1491 criteria for such discounts.

1492 (j) Sourcing of marijuana for medical use.—~~MMTCs Medical~~
 1493 ~~marijuana treatment centers~~ are the sole source from which a
 1494 person ~~qualified patient~~ may legally obtain marijuana.

1495 (k) Rulemaking.—The department may adopt rules pursuant to
 1496 ss. 120.536(1) and 120.54 to implement this subsection.

1497 (9) MEDICAL MARIJUANA TREATMENT CENTER PERSONNEL;
 1498 REGISTRATION; EMPLOYEE IDENTIFICATION CARDS.—

1499 (a) The department shall adopt rules to administer the
 1500 registration of medical marijuana treatment center (MMTC)

1501 principals, employees, and contractors who participate in the
1502 operations of an MMTC. Before hiring or contracting with any
1503 individual who is not registered with the department or who does
1504 not possess a current MMTC employee identification card, an MMTC
1505 must apply to the department to register that person as an MMTC
1506 employee. The department shall adopt by rule a form for such
1507 applications for registration, which must require the applicant
1508 to provide all of the following:

1509 1. His or her full legal name, social security number,
1510 date of birth, and home address.

1511 2. A full-face, passport-type, color photograph of the
1512 applicant taken within the 90 days immediately preceding
1513 submission of the application.

1514 3. Proof that he or she has passed a level 2 background
1515 screening pursuant to chapter 435 within the previous year.

1516 4. An indication as to whether the applicant will be
1517 authorized by the MMTC to possess marijuana while not on MMTC
1518 property.

1519 (b) Once the department has received a completed
1520 application form from an MMTC, the department shall register the
1521 principal, employee, or contractor associated with the MMTC and
1522 issue him or her an MMTC employee identification card that, at a
1523 minimum, includes all of the following:

1524 1. The employee's name and the name of the MMTC that
1525 employs him or her.

1526 2. The employee's photograph, as required under paragraph
 1527 (a).

1528 3. The expiration date of the card, which must be 1 year
 1529 after the date it is issued.

1530 4. An indication of whether the employee is authorized by
 1531 the MMTC to possess marijuana while not on MMTC property.

1532 (c) If any information provided to the department for the
 1533 registration of an MMTC principal, employee, or contractor or in
 1534 the application for an MMTC employee identification card changes
 1535 or if the registered person's employment status with the MMTC
 1536 changes, the registered person and the MMTC must provide the
 1537 department with the new information or status within 7 days
 1538 after the change.

1539 (d) The department may contract with one or more vendors
 1540 for the purpose of issuing MMTC employee identification cards
 1541 under this subsection.

1542 ~~BACKGROUND SCREENING.—An individual required to undergo a~~
 1543 ~~background screening pursuant to this section must pass a level~~
 1544 ~~2 background screening as provided under chapter 435, which, in~~
 1545 ~~addition to the disqualifying offenses provided in s. 435.04,~~
 1546 ~~shall exclude an individual who has an arrest awaiting final~~
 1547 ~~disposition for, has been found guilty of, regardless of~~
 1548 ~~adjudication, or has entered a plea of nolo contendere or guilty~~
 1549 ~~to an offense under chapter 837, chapter 895, or chapter 896 or~~
 1550 ~~similar law of another jurisdiction.~~

1551 ~~(a) Such individual must submit a full set of fingerprints~~
 1552 ~~to the department or to a vendor, entity, or agency authorized~~
 1553 ~~by s. 943.053(13). The department, vendor, entity, or agency~~
 1554 ~~shall forward the fingerprints to the Department of Law~~
 1555 ~~Enforcement for state processing, and the Department of Law~~
 1556 ~~Enforcement shall forward the fingerprints to the Federal Bureau~~
 1557 ~~of Investigation for national processing.~~

1558 ~~(b) Fees for state and federal fingerprint processing and~~
 1559 ~~retention shall be borne by the individual. The state cost for~~
 1560 ~~fingerprint processing shall be as provided in s. 943.053(3)(c)~~
 1561 ~~for records provided to persons or entities other than those~~
 1562 ~~specified as exceptions therein.~~

1563 ~~(c) Fingerprints submitted to the Department of Law~~
 1564 ~~Enforcement pursuant to this subsection shall be retained by the~~
 1565 ~~Department of Law Enforcement as provided in s. 943.05(2)(g) and~~
 1566 ~~(h) and, when the Department of Law Enforcement begins~~
 1567 ~~participation in the program, enrolled in the Federal Bureau of~~
 1568 ~~Investigation's national retained print arrest notification~~
 1569 ~~program. Any arrest record identified shall be reported to the~~
 1570 ~~department.~~

1571 (10) MEDICAL MARIJUANA TREATMENT CENTER INSPECTIONS;
 1572 ADMINISTRATIVE ACTIONS.—

1573 ~~(a) The department shall conduct announced or unannounced~~
 1574 ~~inspections of medical marijuana treatment centers to determine~~
 1575 ~~compliance with this section or rules adopted pursuant to this~~

1576 ~~section.~~

1577 ~~(b) The department shall inspect a medical marijuana~~
1578 ~~treatment center~~ Upon receiving a complaint or notice that a the
1579 medical marijuana treatment center (MMTC) has dispensed
1580 marijuana containing mold, bacteria, or another ~~other~~
1581 contaminant that may cause or has caused an adverse effect to
1582 human health or the environment, the department shall inspect
1583 the MMTC, its facilities, and, as appropriate, any cultivation
1584 or processing facility of the MMTC from which the batch of
1585 marijuana was purchased.

1586 ~~(b)(e)~~ The department shall conduct at least a biennial
1587 inspection of each MMTC ~~medical marijuana treatment center~~ to
1588 evaluate its ~~the medical marijuana treatment center's~~ records,
1589 personnel, equipment, processes, security measures, sanitation
1590 practices, and quality assurance practices.

1591 (c) The department shall conduct at least a biennial
1592 inspection of each permitted facility. The department may
1593 conduct additional announced or unannounced inspections of a
1594 permitted facility within reasonable hours in order to ensure
1595 compliance with this section and rules adopted hereunder.

1596 (d) The Department of Agriculture and Consumer Services
1597 and the department shall enter into an interagency agreement to
1598 ensure cooperation and coordination in the performance of their
1599 obligations under this section and their respective regulatory
1600 and authorizing laws. The department, the Department of Highway

1601 Safety and Motor Vehicles, and the Department of Law Enforcement
1602 may enter into interagency agreements for the purposes specified
1603 in this subsection or subsection (7).

1604 (e) The department shall publish a list of all approved
1605 MMTCs ~~medical marijuana treatment centers~~, medical directors,
1606 and qualified physicians on its website.

1607 (f) The department may impose administrative penalties,
1608 including reasonable fines not to exceed \$10,000, on an MMTC a
1609 ~~medical marijuana treatment center~~ for any of the following
1610 violations:

- 1611 1. Violating this section or department rule.
- 1612 2. Failing to maintain qualifications for approval.
- 1613 3. Endangering the health, safety, or security of a
1614 qualified patient or an adult purchasing marijuana pursuant to
1615 s. 381.990.
- 1616 4. Improperly disclosing personal and confidential
1617 information of the qualified patient.
- 1618 5. Attempting to procure MMTC ~~medical marijuana treatment~~
1619 ~~center~~ approval by bribery, fraudulent misrepresentation, or
1620 extortion.
- 1621 6. Being convicted or found guilty of, or entering a plea
1622 of guilty or nolo contendere to, regardless of adjudication, a
1623 crime in any jurisdiction which directly relates to the business
1624 of an MMTC a ~~medical marijuana treatment center~~.
- 1625 7. Making or filing a report or record that the MMTC

1626 ~~medical marijuana treatment center~~ knows to be false.

1627 8. Willfully failing to maintain a record required by this
1628 section or department rule.

1629 9. Willfully impeding or obstructing an employee or agent
1630 of the department in the furtherance of his or her official
1631 duties.

1632 10. Engaging in fraud or deceit, negligence, incompetence,
1633 or misconduct in the business practices of an MMTC ~~a medical~~
1634 ~~marijuana treatment center~~.

1635 11. Making misleading, deceptive, or fraudulent
1636 representations in or related to the business practices of an
1637 MMTC ~~a medical marijuana treatment center~~.

1638 12. Having a license or the authority to engage in any
1639 regulated profession, occupation, or business that is related to
1640 the business practices of an MMTC ~~a medical marijuana treatment~~
1641 ~~center~~ suspended, revoked, or otherwise acted against by the
1642 licensing authority of any jurisdiction, including its agencies
1643 or subdivisions, for a violation that would constitute a
1644 violation under Florida law.

1645 13. Violating a lawful order of the department or an
1646 agency of the state, or failing to comply with a lawfully issued
1647 subpoena of the department or an agency of the state.

1648 14. Failing to adequately determine the age of a buyer who
1649 is not a qualified patient or caregiver.

1650 (g) The department may suspend, revoke, or refuse to renew

1651 an MMTC's registration, operating licenses, and any vehicle
 1652 permits or facility permits ~~a medical marijuana treatment center~~
 1653 ~~license~~ if the MMTC ~~medical marijuana treatment center~~ commits
 1654 any of the violations specified in paragraph (f).

1655 (h) The department shall refuse to renew the cultivation,
 1656 processing, retail, or transportation license of an MMTC that
 1657 has been issued such a license and has not begun to cultivate,
 1658 process, dispense, or transport marijuana, as applicable, by the
 1659 date that the MMTC is required to renew such license.

1660 (i) ~~(h)~~ The department may adopt rules pursuant to ss.
 1661 120.536(1) and 120.54 to implement this subsection.

1662 (11) PREEMPTION.—Regulation of cultivation, processing,
 1663 and delivery of marijuana by medical marijuana treatment centers
 1664 (MMTCs) is preempted to the state except as provided in this
 1665 subsection.

1666 (a) An MMTC ~~A medical marijuana treatment center~~
 1667 cultivating or processing facility may not be located within 500
 1668 feet of the real property that comprises a public or private
 1669 elementary school, middle school, or secondary school.

1670 (b)1. A county or municipality may, by ordinance, ban MMTC
 1671 ~~medical marijuana treatment center~~ dispensing facilities from
 1672 being located within the boundaries of that county or
 1673 municipality. A county or municipality that does not ban
 1674 dispensing facilities under this subparagraph may not place
 1675 specific limits, by ordinance, on the number of dispensing

1676 facilities that may locate within that county or municipality.
 1677 2. A municipality may determine by ordinance the criteria
 1678 for the location of, and other permitting requirements that do
 1679 not conflict with state law or department rule for, MMTC ~~medical~~
 1680 ~~marijuana treatment center~~ dispensing facilities located within
 1681 the boundaries of that municipality. A county may determine by
 1682 ordinance the criteria for the location of, and other permitting
 1683 requirements that do not conflict with state law or department
 1684 rule for, all such dispensing facilities located within the
 1685 unincorporated areas of that county. Except as provided in
 1686 paragraph (c), a county or municipality may not enact ordinances
 1687 for permitting or for determining the location of dispensing
 1688 facilities which are more restrictive than its ordinances
 1689 permitting or determining the locations for pharmacies licensed
 1690 under chapter 465. A municipality or county may not charge an
 1691 MMTC ~~a medical marijuana treatment center~~ a license or permit
 1692 fee in an amount greater than the fee charged by such
 1693 municipality or county to pharmacies. A dispensing facility
 1694 location approved by a municipality or county pursuant to former
 1695 s. 381.986(8)(b), Florida Statutes 2016, is not subject to the
 1696 location requirements of this subsection.
 1697 (c) An MMTC ~~A medical marijuana treatment center~~
 1698 dispensing facility may not be located within 500 feet of the
 1699 real property that comprises a public or private elementary
 1700 school, middle school, or secondary school unless the county or

1701 municipality approves the location through a formal proceeding
 1702 open to the public at which the county or municipality
 1703 determines that the location promotes the public health, safety,
 1704 and general welfare of the community.

1705 (d) This subsection does not prohibit any local
 1706 jurisdiction from ensuring that MMTC ~~medical marijuana treatment~~
 1707 ~~center~~ facilities comply with the Florida Building Code, the
 1708 Florida Fire Prevention Code, or any local amendments to the
 1709 Florida Building Code or the Florida Fire Prevention Code.

1710 (12) PENALTIES.—

1711 (a) A qualified physician commits a misdemeanor of the
 1712 first degree, punishable as provided in s. 775.082 or s.
 1713 775.083, if he or she ~~the qualified physician~~ issues a physician
 1714 certification for the medical use of marijuana for a patient
 1715 without a reasonable belief that the patient is suffering from a
 1716 qualifying medical condition.

1717 (b) A person who fraudulently represents that he or she
 1718 has a qualifying medical condition to a qualified physician for
 1719 the purpose of being issued a physician certification commits a
 1720 misdemeanor of the first degree, punishable as provided in s.
 1721 775.082 or s. 775.083.

1722 (c) 1. A person ~~qualified patient~~ who uses marijuana, not
 1723 including low-THC cannabis, or a caregiver who administers
 1724 marijuana, not including low-THC cannabis, in plain view of or
 1725 in a place open to the general public is subject to a civil fine

1726 | not exceeding \$100.

1727 | 2. A person who uses marijuana, not including low-THC
 1728 | cannabis, in a school bus, a moving vehicle, or an aircraft, ~~or~~
 1729 | ~~a boat,~~ or on the grounds of a school except as provided in s.
 1730 | 1006.062, commits a misdemeanor of the first degree, punishable
 1731 | as provided in s. 775.082 or s. 775.083.

1732 | (d) A person ~~qualified patient or caregiver~~ who cultivates
 1733 | marijuana or who purchases ~~or acquires~~ marijuana from any person
 1734 | or entity other than a medical marijuana treatment center (MMTC)
 1735 | violates s. 893.13 and is subject to the penalties provided
 1736 | therein.

1737 | ~~(c)1. A qualified patient or caregiver in possession of~~
 1738 | ~~marijuana or a marijuana delivery device who fails or refuses to~~
 1739 | ~~present his or her marijuana use registry identification card~~
 1740 | ~~upon the request of a law enforcement officer commits a~~
 1741 | ~~misdemeanor of the second degree, punishable as provided in s.~~
 1742 | ~~775.082 or s. 775.083, unless it can be determined through the~~
 1743 | ~~medical marijuana use registry that the person is authorized to~~
 1744 | ~~be in possession of that marijuana or marijuana delivery device.~~

1745 | ~~2. A person charged with a violation of this paragraph may~~
 1746 | ~~not be convicted if, before or at the time of his or her court~~
 1747 | ~~or hearing appearance, the person produces in court or to the~~
 1748 | ~~clerk of the court in which the charge is pending a medical~~
 1749 | ~~marijuana use registry identification card issued to him or her~~
 1750 | ~~which is valid at the time of his or her arrest. The clerk of~~

1751 ~~the court is authorized to dismiss such case at any time before~~
1752 ~~the defendant's appearance in court. The clerk of the court may~~
1753 ~~assess a fee of \$5 for dismissing the case under this paragraph.~~

1754 (e)~~(f)~~ A caregiver who violates any of the applicable
1755 provisions of this section or applicable department rules, for
1756 the first offense, commits a misdemeanor of the second degree,
1757 punishable as provided in s. 775.082 or s. 775.083 and, for a
1758 second or subsequent offense, commits a misdemeanor of the first
1759 degree, punishable as provided in s. 775.082 or s. 775.083.

1760 (f)~~(g)~~ A qualified physician who issues a physician
1761 certification for marijuana or a marijuana delivery device and
1762 receives compensation from an MMTC ~~a medical marijuana treatment~~
1763 ~~center~~ related to the issuance of a physician certification for
1764 marijuana or a marijuana delivery device is subject to
1765 disciplinary action under the applicable practice act and s.
1766 456.072 (1) (n) .

1767 (g)~~(h)~~ A person transporting marijuana or marijuana
1768 delivery devices on behalf of an MMTC ~~a medical marijuana~~
1769 ~~treatment center~~ or marijuana testing laboratory who fails or
1770 refuses to present a transportation manifest, whether in paper
1771 or electronic format, upon the request of a law enforcement
1772 officer commits a misdemeanor of the second degree, punishable
1773 as provided in s. 775.082 or s. 775.083.

1774 (h)~~(i)~~ Persons and entities conducting activities
1775 authorized and governed by this section and s. 381.988 are

HB 343

2021

1776 subject to ss. 456.053, 456.054, and 817.505, as applicable.

1777 (i)~~(j)~~ A person or entity that cultivates, processes,
1778 distributes, sells, or dispenses marijuana, as defined in s.
1779 29(b)(4), Art. X of the State Constitution, and is not licensed
1780 as an MMTC ~~a medical marijuana treatment center~~ violates s.
1781 893.13 and is subject to the penalties provided therein. This
1782 paragraph does not apply to a transfer of marijuana products or
1783 marijuana which is authorized by this section, s. 381.990, or s.
1784 893.13.

1785 (j)~~(k)~~ A person who manufactures, distributes, sells,
1786 gives, or possesses with the intent to manufacture, distribute,
1787 sell, or give marijuana or a marijuana delivery device that he
1788 or she holds out to have originated from a licensed MMTC ~~medical~~
1789 ~~marijuana treatment center~~ but that is counterfeit commits a
1790 felony of the third degree, punishable as provided in s.
1791 775.082, s. 775.083, or s. 775.084. For the purposes of this
1792 paragraph, the term "counterfeit" means marijuana; a marijuana
1793 delivery device; or a marijuana or marijuana delivery device
1794 container, seal, or label which, without authorization, bears
1795 the trademark, trade name, or other identifying mark, imprint,
1796 or device, or any likeness thereof, of a licensed MMTC ~~medical~~
1797 ~~marijuana treatment center~~ and which thereby falsely purports or
1798 is represented to be the product of, or to have been distributed
1799 by, that licensed MMTC ~~medical marijuana treatment facility~~.

1800 (k)~~(l)~~ Any person who possesses or manufactures a blank,

1801 forged, stolen, fictitious, fraudulent, counterfeit, or
 1802 otherwise unlawfully issued medical marijuana use registry
 1803 identification card commits a felony of the third degree,
 1804 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1805 (14) EXCEPTIONS TO OTHER LAWS.—

1806 (a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
 1807 any other ~~provision of~~ law, but subject to the requirements of
 1808 this section, a qualified patient and the qualified patient's
 1809 caregiver may purchase from a medical marijuana treatment center
 1810 (MMTC) for the patient's medical use a marijuana delivery device
 1811 and up to the amount of marijuana authorized in the physician
 1812 certification, but may not possess more than a 70-day supply of
 1813 marijuana, or the greater of 4 ounces of marijuana in a form for
 1814 smoking or an amount of marijuana in a form for smoking approved
 1815 by the department pursuant to paragraph (4) (f), at any given
 1816 time and all marijuana purchased must remain in its original
 1817 packaging.

1818 (b) Notwithstanding paragraph (a), s. 893.13, s. 893.135,
 1819 s. 893.147, or any other ~~provision of~~ law, a qualified patient
 1820 and the qualified patient's caregiver may purchase and possess a
 1821 marijuana delivery device intended for the medical use of
 1822 marijuana by smoking from a vendor other than an MMTC ~~a medical~~
 1823 ~~marijuana treatment center~~.

1824 (c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
 1825 any other ~~provision of~~ law, but subject to the requirements of

1826 | this section, an approved MMTC ~~medical marijuana treatment~~
 1827 | ~~center~~ and its owners, managers, and employees may manufacture,
 1828 | possess, sell, deliver, distribute, dispense, and lawfully
 1829 | dispose of marijuana or a marijuana delivery device as provided
 1830 | in this section, s. 381.988, s. 381.990, and by department rule.
 1831 | For the purposes of this subsection, the terms "manufacture,"
 1832 | "possession," "deliver," "distribute," and "dispense" have the
 1833 | same meanings as provided in s. 893.02.

1834 | (e) A licensed MMTC ~~medical marijuana treatment center~~ and
 1835 | its owners, managers, and employees are not subject to licensure
 1836 | or regulation under chapter 465 or chapter 499 for
 1837 | manufacturing, possessing, selling, delivering, distributing,
 1838 | dispensing, or lawfully disposing of marijuana or a marijuana
 1839 | delivery device, as provided in this section, in s. 381.988, and
 1840 | by department rule.

1841 | ~~(17) Rules adopted pursuant to this section before July 1,~~
 1842 | ~~2021, are not subject to ss. 120.54(3)(b) and 120.541. This~~
 1843 | ~~subsection expires July 1, 2021.~~

1844 | Section 3. Section 381.990, Florida Statutes, is created
 1845 | to read:

1846 | 381.990 Adult use of marijuana.-

1847 | (1) A person 21 years of age or older may purchase
 1848 | marijuana products containing up to 2,000 milligrams of
 1849 | tetrahydrocannabinol; up to 2.5 ounces of marijuana in a form
 1850 | for smoking; and one or more marijuana delivery devices, as

1851 defined in s. 381.986, provided that such marijuana products,
1852 marijuana in a form for smoking, and marijuana delivery devices
1853 are purchased from a medical marijuana treatment center (MMTC)
1854 that is licensed by the department pursuant to s. 381.986 for
1855 the retail sale of marijuana and is registered by the Department
1856 of Business and Professional Regulation for the sale of
1857 marijuana for adult use. A violation of this subsection is
1858 punishable as provided in s. 893.13.

1859 (2) A person who purchases marijuana products, marijuana
1860 in a form for smoking, or marijuana delivery devices in
1861 accordance with subsection (1) may possess, use, transport, and
1862 transfer, without consideration, to a person 21 years of age or
1863 older such products or devices. However, a person may not
1864 possess at any given time marijuana products that contain, in
1865 total, more than 2,000 milligrams of tetrahydrocannabinol or
1866 more than 4.0 ounces of marijuana in a form for smoking. A
1867 violation of this subsection is punishable as provided in s.
1868 893.13.

1869 (3) This section does not limit the ability of a private
1870 property owner to restrict the smoking or vaping of marijuana on
1871 his or her private property; however, a landlord may not prevent
1872 his or her tenants from possessing or using marijuana by other
1873 means.

1874 (4) This section does not exempt a person from prosecution
1875 for a criminal offense related to impairment or intoxication

1876 resulting from the use of marijuana or relieve a person from any
 1877 requirement under law to submit to a breath, blood, urine, or
 1878 other test to detect the presence of a controlled substance.

1879 Section 4. Effective July 1, 2021, the Department of
 1880 Agriculture and Consumer Services shall conduct a study on the
 1881 potential harms and benefits of allowing the cultivation of
 1882 marijuana by members of the public for private use, including
 1883 the use of a cooperative model. The department shall report the
 1884 results of the study to the Governor, the President of the
 1885 Senate, and the Speaker of the House of Representatives by
 1886 January 1, 2022.

1887 Section 5. Subsection (3) and paragraphs (a) and (b) of
 1888 subsection (6) of section 893.13, Florida Statutes, are amended
 1889 to read:

1890 893.13 Prohibited acts; penalties.—

1891 (3) (a) A person 21 years of age or older may deliver,
 1892 without consideration, to another person 21 years of age or
 1893 older:

1894 1. Marijuana products that contain a total of 2,000
 1895 milligrams or less of tetrahydrocannabinol; and

1896 2. A quantity of 2.5 ounces or less of cannabis, as
 1897 defined in this chapter.

1898 (b) A person younger than 21 years of age who delivers,
 1899 without consideration, to another person marijuana products that
 1900 contain a total of 2,000 milligrams or less of

1901 tetrahydrocannabinol or a quantity of 2.5 ounces or less of
 1902 cannabis, as defined in this chapter, commits a misdemeanor of
 1903 the second degree, punishable as provided in s. 775.082 or s.
 1904 775.083, for a first conviction of a violation of this paragraph
 1905 and commits a misdemeanor of the first degree, punishable as
 1906 provided in s. 775.082 or s. 775.083, for a second or subsequent
 1907 conviction of a violation of this paragraph ~~who delivers,~~
 1908 ~~without consideration, 20 grams or less of cannabis, as defined~~
 1909 ~~in this chapter, commits a misdemeanor of the first degree,~~
 1910 ~~punishable as provided in s. 775.082 or s. 775.083. As used in~~
 1911 ~~this subsection, the term "cannabis" does not include the resin~~
 1912 ~~extracted from the plants of the genus Cannabis or any compound~~
 1913 ~~manufacture, salt, derivative, mixture, or preparation of such~~
 1914 ~~resin.~~

1915 (6) (a) Except as otherwise provided in this subsection, a
 1916 person may not be in actual or constructive possession of a
 1917 controlled substance unless such controlled substance was
 1918 lawfully obtained from a practitioner or pursuant to a valid
 1919 prescription or order of a practitioner while acting in the
 1920 course of his or her professional practice or to be in actual or
 1921 constructive possession of a controlled substance except as
 1922 otherwise authorized by this chapter. A person who violates this
 1923 provision commits a felony of the third degree, punishable as
 1924 provided in s. 775.082, s. 775.083, or s. 775.084.

1925 (b) 1. A person 21 years of age or older may possess

1926 marijuana products that contain a total of 2,000 milligrams or
 1927 less of tetrahydrocannabinol and may possess 4.0 ounces or less
 1928 of cannabis, as defined in this chapter ~~If the offense is the~~
 1929 ~~possession of 20 grams or less of cannabis, as defined in this~~
 1930 ~~chapter, the person commits a misdemeanor of the first degree,~~
 1931 ~~punishable as provided in s. 775.082 or s. 775.083. As used in~~
 1932 ~~this subsection, the term "cannabis" does not include the resin~~
 1933 ~~extracted from the plants of the genus Cannabis, or any compound~~
 1934 ~~manufacture, salt, derivative, mixture, or preparation of such~~
 1935 ~~resin.~~

1936 2. A person under 21 years of age who possesses marijuana
 1937 products that contain a total of 2,000 milligrams or less of
 1938 tetrahydrocannabinol or who possesses 4.0 ounces or less of
 1939 cannabis, as defined in this chapter, commits a misdemeanor of
 1940 the second degree, punishable as provided in s. 775.082 or s.
 1941 775.083, for a first conviction of a violation of this
 1942 paragraph, and a misdemeanor of the first degree, punishable as
 1943 provided in s. 775.082 or s. 775.083, for a second or subsequent
 1944 conviction of a violation of this paragraph.

1945 Section 6. Section 893.1352, Florida Statutes, is created
 1946 to read:

1947 893.1352 Retroactive application of s. 893.13.—

1948 (1) It is the intent of the Legislature to retroactively
 1949 apply amendments to s. 893.13 to certain persons who were
 1950 convicted of possession of cannabis before January 1, 2022.

1951 (2) As used in this section, a reference to "former s.
1952 893.13, Florida Statutes 2021," is a reference to s. 893.13 as
1953 it existed at any time before January 1, 2022.

1954 (3) (a) A person who was convicted of a violation of former
1955 s. 893.13, Florida Statutes 2021, for possessing 4.0 ounces or
1956 less of cannabis as defined in chapter 893, but was not
1957 sentenced under that section before January 1, 2022, must be
1958 sentenced in accordance with s. 775.082, s. 775.083, or s.
1959 775.084 for the degree of offense as provided for in s. 893.13.

1960 (b) A person who was convicted of a violation of former s.
1961 893.13, Florida Statutes 2021, for possessing 4.0 ounces or less
1962 of cannabis as defined in chapter 893, who was sentenced before
1963 January 1, 2022, to a term of imprisonment or probation pursuant
1964 to former s. 893.13, Florida Statutes 2021, and who is serving
1965 the term of imprisonment or probation on or after January 1,
1966 2022, must have an opportunity for a sentence review hearing. If
1967 the person requests a sentence review hearing, he or she must be
1968 resentenced in accordance with paragraph (c).

1969 (c) Resentencing under this section must occur in the
1970 following manner:

1971 1. The Department of Corrections shall notify the person
1972 described in paragraph (b) of his or her eligibility to request
1973 a sentence review hearing.

1974 2. A person seeking sentence review under this section may
1975 submit an application to the court of original jurisdiction

1976 requesting that a sentence review hearing be held. The
1977 sentencing court retains original jurisdiction for the duration
1978 of the sentence for the purpose of this review.

1979 3. A person who is eligible for a sentence review hearing
1980 under this section is entitled to representation by legal
1981 counsel. If the person is indigent and unable to employ counsel,
1982 the court shall appoint counsel under s. 27.52. Determination of
1983 indigence and costs of representation is as provided in ss.
1984 27.52 and 938.29.

1985 4. Upon receipt of a request for a sentence review
1986 hearing, the court of original jurisdiction shall hold such a
1987 hearing to determine if the person meets the criteria for
1988 resentencing under this section. If the court determines by a
1989 preponderance of the evidence that the person is currently
1990 serving a sentence for a violation of former s. 893.13, Florida
1991 Statutes 2021, and that the violation was for possession of
1992 cannabis in the amount of 4.0 ounces or less, the court shall
1993 resentence the person in accordance with this section. If the
1994 court determines that the person does not meet the criteria for
1995 resentencing under this section, the court must provide written
1996 findings as to why the person does not meet the criteria.

1997 5. If the court finds that the underlying facts of the
1998 person's conviction that is subject to resentencing are
1999 classified as a crime under s. 893.13, the person must be
2000 resentenced to a term that would not exceed the maximum sentence

2001 provided by that section. The person is entitled to receive
 2002 credit for his or her time served.

2003 6. If the court finds that the underlying facts of the
 2004 person's conviction that is subject to resentencing are not
 2005 classified as a crime under s. 893.13, the person must be
 2006 resentenced to time served and released from supervision as soon
 2007 as reasonably possible.

2008 (4) Notwithstanding any other law, a person who has been
 2009 convicted of a crime under former s. 893.13, Florida Statutes
 2010 2021, and whose offense would not be classified as a crime under
 2011 s. 893.13, must have all fines, fees, and costs related to such
 2012 conviction waived.

2013 Section 7. Present subsections (5), (6), and (7) of
 2014 section 893.147, Florida Statutes, are redesignated as
 2015 subsections (6), (7), and (8), respectively, a new subsection
 2016 (5) is added to that section, and subsections (1), (2), and (4)
 2017 of that section are amended, to read:

2018 893.147 Use, possession, manufacture, delivery,
 2019 transportation, advertisement, or retail sale of drug
 2020 paraphernalia, specified machines, and materials.—

2021 (1) USE OR POSSESSION OF DRUG PARAPHERNALIA.—Except as
 2022 provided in subsection (5), it is unlawful for any person to
 2023 use, or to possess with intent to use, drug paraphernalia:

2024 (a) To plant, propagate, cultivate, grow, harvest,
 2025 manufacture, compound, convert, produce, process, prepare, test,

2026 analyze, pack, repack, store, contain, or conceal a controlled
 2027 substance in violation of this chapter; or

2028 (b) To inject, ingest, inhale, or otherwise introduce into
 2029 the human body a controlled substance in violation of this
 2030 chapter.

2031
 2032 Any person who violates this subsection is guilty of a
 2033 misdemeanor of the first degree, punishable as provided in s.
 2034 775.082 or s. 775.083.

2035 (2) MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.—Except
 2036 as provided in subsection (5), it is unlawful for any person to
 2037 deliver, possess with intent to deliver, or manufacture with
 2038 intent to deliver drug paraphernalia, knowing, or under
 2039 circumstances where one reasonably should know, that it will be
 2040 used:

2041 (a) To plant, propagate, cultivate, grow, harvest,
 2042 manufacture, compound, convert, produce, process, prepare, test,
 2043 analyze, pack, repack, store, contain, or conceal a controlled
 2044 substance in violation of this act; or

2045 (b) To inject, ingest, inhale, or otherwise introduce into
 2046 the human body a controlled substance in violation of this act.

2047
 2048 Any person who violates this subsection is guilty of a felony of
 2049 the third degree, punishable as provided in s. 775.082, s.
 2050 775.083, or s. 775.084.

HB 343

2021

2051 (4) TRANSPORTATION OF DRUG PARAPHERNALIA.—Except as
2052 provided in subsection (5), it is unlawful to use, possess with
2053 the intent to use, or manufacture with the intent to use drug
2054 paraphernalia, knowing or under circumstances in which one
2055 reasonably should know that it will be used to transport:

2056 (a) A controlled substance in violation of this chapter;
2057 or

2058 (b) Contraband as defined in s. 932.701(2)(a)1.
2059

2060 Any person who violates this subsection commits a felony of the
2061 third degree, punishable as provided in s. 775.082, s. 775.083,
2062 or s. 775.084.

2063 (5) ACTS INVOLVING A MARIJUANA DELIVERY DEVICE.—

2064 (a) A person 21 years of age or older may possess, use,
2065 transport, or deliver, without consideration, to a person 21
2066 years of age or older a marijuana delivery device, as defined in
2067 s. 381.986.

2068 (b) A person younger than 21 years of age who possesses,
2069 uses, transports, or delivers, without consideration, to a
2070 person 21 years of age or older a marijuana delivery device, as
2071 defined in s. 381.986, commits a misdemeanor of the second
2072 degree, punishable as provided in s. 775.082 or s. 775.083 for a
2073 first conviction of a violation of this paragraph, and a
2074 misdemeanor of the first degree, punishable as provided in s.
2075 775.082 or s. 775.083, for a second or subsequent conviction of

2076 a violation of this paragraph.

2077 Section 8. Section 943.0586, Florida Statutes, is created
2078 to read:

2079 943.0586 Cannabis expunction.—

2080 (1) DEFINITIONS.—As used in this section, the term:

2081 (a) "Cannabis" has the same meaning as provided in chapter
2082 893.

2083 (b) "Expunction" has the same meaning and effect as
2084 provided in s. 943.0585.

2085 (c) "Former s. 893.13, Florida Statutes 2021," is a
2086 reference to s. 893.13 as it existed at any time before January
2087 1, 2022.

2088 (2) ELIGIBILITY.—Notwithstanding any other law, a person
2089 is eligible to petition a court to expunge a criminal history
2090 record for the conviction of former s. 893.13, Florida Statutes
2091 2021, if:

2092 (a) The person received a withholding of adjudication or
2093 adjudication of guilt for a violation of former 893.13, Florida
2094 Statutes 2021, for the possession of cannabis;

2095 (b) The person possessed 4.0 ounces or less of cannabis;
2096 and

2097 (c) The person is no longer under court supervision
2098 related to the disposition of arrest or alleged criminal
2099 activity to which the petition to expunge pertains.

2100 (3) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court

2101 to expunge a criminal history record under this section, a
2102 person seeking to expunge a criminal history record must apply
2103 to the department for a certificate of eligibility for
2104 expunction. The department shall adopt rules to establish
2105 procedures for applying for and issuing a certificate of
2106 eligibility for expunction.

2107 (a) The department shall issue a certificate of
2108 eligibility for expunction to a person who is the subject of a
2109 criminal history record under this section, if that person:

2110 1. Satisfies the eligibility criteria in subsection (2);

2111 2. Has submitted to the department a written certified
2112 statement from the appropriate state attorney or statewide
2113 prosecutor which confirms the criminal history record complies
2114 with the criteria in subsection (2); and

2115 3. Has submitted to the department a certified copy of the
2116 disposition of the charge to which the petition to expunge
2117 pertains.

2118 (b) A certificate of eligibility for expunction is valid
2119 for 12 months after the date of issuance stamped by the
2120 department on the certificate. After that time, the petitioner
2121 must reapply to the department for a new certificate of
2122 eligibility. The petitioner's status and the law in effect at
2123 the time of the renewal application determine the petitioner's
2124 eligibility.

2125 (4) PETITION.—Each petition to expunge a criminal history

2126 record must be accompanied by:

2127 (a) A valid certificate of eligibility issued by the
 2128 department.

2129 (b) The petitioner's sworn statement that he or she:

2130 1. Satisfies the eligibility requirements for expunction
 2131 in subsection (2); and

2132 2. Is eligible for expunction to the best of his or her
 2133 knowledge.

2134 (5) PENALTIES.—A person who knowingly provides false
 2135 information on his or her sworn statement submitted with a
 2136 petition to expunge commits a felony of the third degree,
 2137 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2138 (6) COURT AUTHORITY.—

2139 (a) The courts of this state have jurisdiction over their
 2140 own procedures, including the maintenance, expunction, and
 2141 correction of judicial records containing criminal history
 2142 information to the extent that such procedures are not
 2143 inconsistent with the conditions, responsibilities, and duties
 2144 established by this section.

2145 (b) A court of competent jurisdiction shall order a
 2146 criminal justice agency to expunge the criminal history record
 2147 of a person who complies with this section. The court may not
 2148 order a criminal justice agency to expunge a criminal history
 2149 record under this section until the person seeking to expunge a
 2150 criminal history record has applied for and received a

2151 certificate of eligibility under subsection (3).

2152 (c) Expunction granted under this section does not prevent
2153 the person who receives such relief from petitioning for the
2154 expunction or sealing of a later criminal history record as
2155 provided for in ss. 943.0583, 943.0585, and 943.059, if the
2156 person is otherwise eligible under those sections.

2157 (7) PROCESSING OF A PETITION OR AN ORDER.—

2158 (a) In judicial proceedings under this section, a copy of
2159 the completed petition to expunge must be served upon the
2160 appropriate state attorney or the statewide prosecutor and upon
2161 the arresting agency; however, it is not necessary to make any
2162 agency other than the state a party. The appropriate state
2163 attorney or the statewide prosecutor and the arresting agency
2164 may respond to the court regarding the completed petition to
2165 expunge.

2166 (b) If relief is granted by the court, the clerk of the
2167 court shall certify copies of the order to the appropriate state
2168 attorney or the statewide prosecutor and the arresting agency.
2169 The arresting agency shall forward the order to any other agency
2170 to which the arresting agency disseminated the criminal history
2171 record information to which the order pertains. The department
2172 shall forward the order to expunge to the Federal Bureau of
2173 Investigation. The clerk of the court shall certify a copy of
2174 the order to any other agency that the records of the court
2175 reflect has received the criminal history record from the court.

2176 (c) The department or any other criminal justice agency is
2177 not required to act on an order to expunge entered by a court if
2178 such order does not meet the requirements of this section. Upon
2179 receipt of such an order, the department shall notify the
2180 issuing court, the appropriate state attorney or statewide
2181 prosecutor, the petitioner or the petitioner's attorney, and the
2182 arresting agency of the reason for noncompliance. The
2183 appropriate state attorney or statewide prosecutor shall take
2184 action within 60 days to correct the record and petition the
2185 court to void the order. No cause of action, including contempt
2186 of court, may arise against any criminal justice agency for
2187 failure to comply with an order to expunge if the petitioner for
2188 such order failed to obtain the certificate of eligibility as
2189 required by this section or such order does not otherwise meet
2190 the requirements of this section.

2191 (8) EFFECT OF CANNABIS EXPUNCTION ORDER.—

2192 (a) The person who is the subject of a criminal history
2193 record that is expunged under this section may lawfully deny or
2194 fail to acknowledge the arrests and convictions covered by the
2195 expunged record, except if the person who is the subject of the
2196 record:

- 2197 1. Is a candidate for employment with a criminal justice
2198 agency;
2199 2. Is a defendant in a criminal prosecution;
2200 3. Concurrently or subsequently petitions for relief under

2201 this section, s. 943.0583, s. 943.0585, or s. 943.059;
 2202 4. Is a candidate for admission to The Florida Bar;
 2203 5. Is seeking to be employed or licensed by or to contract
 2204 with the Department of Children and Families, the Division of
 2205 Vocational Rehabilitation within the Department of Education,
 2206 the Agency for Health Care Administration, the Agency for
 2207 Persons with Disabilities, the Department of Health, the
 2208 Department of Elderly Affairs, or the Department of Juvenile
 2209 Justice or to be employed or used by such contractor or licensee
 2210 in a sensitive position having direct contact with children,
 2211 persons with disabilities, or the elderly;
 2212 6. Is seeking to be employed or licensed by the Department
 2213 of Education, any district school board, any university
 2214 laboratory school, any charter school, any private or parochial
 2215 school, or any local governmental entity that licenses child
 2216 care facilities;
 2217 7. Is seeking to be licensed by the Division of Insurance
 2218 Agent and Agency Services within the Department of Financial
 2219 Services; or
 2220 8. Is seeking to be appointed as a guardian pursuant to s.
 2221 744.3125.
 2222 (b) A person who has been granted an expunction under this
 2223 section and who is authorized under paragraph (a) to lawfully
 2224 deny or fail to acknowledge the arrests and convictions covered
 2225 by an expunged record may not be held under any law of this

HB 343

2021

2226 state to have committed perjury or to be otherwise liable for
2227 giving a false statement by reason of his or her failure to
2228 recite or acknowledge an expunged criminal history record.

2229 Section 9. Section 893.15, Florida Statutes, is amended to
2230 read:

2231 893.15 Rehabilitation.—Any person who violates s.
2232 893.13(6) (a) ~~or (b)~~ relating to possession may, in the
2233 discretion of the trial judge, be required to participate in a
2234 substance abuse services program approved or regulated by the
2235 Department of Children and Families pursuant to the provisions
2236 of chapter 397, provided the director of such program approves
2237 the placement of the defendant in such program. Such required
2238 participation shall be imposed in addition to any penalty or
2239 probation otherwise prescribed by law. However, the total time
2240 of such penalty, probation, and program participation shall not
2241 exceed the maximum length of sentence possible for the offense.

2242 Section 10. Except as otherwise expressly provided in this
2243 act and except for this section, which shall take effect upon
2244 becoming a law, this act shall take effect January 1, 2022.