

SB72 INTRODUCED



1 SB72
2 3L95VVE-1
3 By Senators Melson, Albritton, Sessions
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 04-Feb-25



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SYNOPSIS:

Under existing law, the Alabama Medical Cannabis Commission is responsible for issuing licenses for medical cannabis facilities. The commission must comply with certain administrative procedures when denying, revoking, suspending, or restricting a license.

This bill would delete a provision requiring the commission to hold an investigatory hearing after the denial of a license.

This bill would provide that the denial or granting of a license is final and conclusive and any form of relief ordered by a court that would have the effect of preventing the commission from issuing a license or invalidating a license previously awarded is immediately appealable to the Alabama Supreme Court.

Also under existing law, the commission may issue five integrated facility licenses, which allows for cultivation, processing, and dispensing of medical cannabis.

This bill would increase the number of integrated facility licenses that may be granted to seven licenses.

This bill would require the commission to hire a consultant to select from the pool of applicants that previously submitted an application for a license by



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29 December 31, 2022, those applicants that will be
30 awarded a license based on the qualifications and
31 procedures set forth in the medical cannabis laws.

32 This bill would also require the commission to
33 grant licenses to the applicants selected by the
34 consultant and would provide that the selection
35 determination made by the consultant is considered a
36 final determination made by the commission for all
37 legal purposes.

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A BILL

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TO BE ENTITLED

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AN ACT

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44 Relating to the Alabama Medical Cannabis Commission; to
45 amend Sections 20-2A-56, 20-2A-57, and 20-2A-68, Code of
46 Alabama 1975, to provide further for the administrative
47 process and appeal of a license granted or denied by the
48 commission; to amend Section 20-2A-67, Code of Alabama 1975,
49 to increase the number of integrated facility licenses; and to
50 add Section 20-2A-67.1 to the Code of Alabama 1975, to require
51 the commission to hire a consultant and provide further for
52 the process of selecting applicants to be granted integrated
53 facility licenses by the commission.

54 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

55 Section 1. Sections 20-2A-56, 20-2A-57, 20-2A-67, and
56 20-2A-68, Code of Alabama 1975, are amended to read as



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57 follows:

58 "§20-2A-56

59 (a) Before issuing any license under this article, the
60 commission shall provide notice and a 30-day period during
61 which members of the public may submit written comments
62 regarding an applicant. The commission shall consider all
63 comments received during the 30-day period. The commission may
64 hold a public hearing as it deems necessary, at which the
65 applicant may present its business plan for the operation of
66 its facilities and allow further comments or questions from
67 the public. The hearing shall be conducted in a manner that
68 allows members of the public to participate remotely by
69 virtual means.

70 (b) An applicant is ineligible to receive a license if
71 any of the following circumstances exist:

72 (1) An owner, director, board member, or individual
73 with a controlling interest in the applicant has been
74 convicted of or released from incarceration for a felony under
75 the laws of this state, any other state, or the United States
76 within the past 10 years or has been convicted of a controlled
77 substance-related felony within the past 10 years; provided,
78 however, the commission shall not consider any conviction
79 overturned on appeal or any charge that has been expunged
80 pursuant to Chapter 27 of Title 15.

81 (2) The applicant has knowingly submitted an
82 application for a license under this article that contains
83 false information.

84 (3) An owner, director, board member, or individual



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85 with an economic interest in the applicant is a member of the
86 commission.

87 (4) The applicant fails to demonstrate the ability to
88 maintain adequate minimum levels of liability and casualty
89 insurance or other financial guarantees for its proposed
90 facility.

91 (5) The applicant cannot provide records described in
92 ~~subdivision (a) (10) of~~ Section 20-2A-55 (a) (10).

93 (6) For an applicant seeking an integrated facility
94 license or a cultivator license, the applicant cannot provide
95 records described in ~~subdivision (a) (11) of~~ Section
96 20-2A-55 (a) (11).

97 (7) The applicant fails to meet other criteria
98 established by rule.

99 (c) In determining whether to grant a license to an
100 applicant, the commission may consider all of the following:

101 (1) The integrity, moral character, and reputation;
102 personal and business probity; financial ability and
103 experience; and responsibility or means to operate or maintain
104 a facility of the applicant and of any other individual that
105 meets either of the following:

106 a. Controls, directly or indirectly, the applicant.

107 b. Is controlled, directly or indirectly, by the
108 applicant or by a person who controls, directly or indirectly,
109 the applicant.

110 (2) The financial ability of the applicant to maintain
111 required financial guarantees.

112 (3) The sources and total amount of the applicant's



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113 capitalization to operate and maintain the proposed facility.

114 (4) Whether an owner, director, board member, or
115 individual with a controlling interest in the applicant has
116 been indicted for, charged with, arrested for, convicted of,
117 pled guilty or nolo contendere to, or forfeited bail
118 concerning, or had expunged any relevant criminal offense
119 under the laws of any jurisdiction, either felony or
120 misdemeanor, not including traffic violations, regardless of
121 whether the offense has been expunged, pardoned, or reversed
122 on appeal or otherwise.

123 (5) Whether the applicant has filed, or had filed
124 against it, a proceeding for bankruptcy within the past seven
125 years.

126 (6) Whether the applicant has been served with a
127 complaint or other notice filed with any court or public
128 agency regarding payment of any tax required under federal,
129 state, or local law that has been delinquent for one or more
130 years.

131 (7) Whether the applicant has a history of
132 noncompliance with any regulatory requirements in this state
133 or any other jurisdiction.

134 (8) Whether at the time of application the applicant is
135 a defendant in litigation involving its business practices.

136 (9) The applicant's ability to capitalize and conduct
137 operations as proposed in its business plan, including
138 business experience in related fields.

139 (10) The applicant's history of business activities as
140 it applies to the specific license for which the applicant is



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141 seeking licensure.

142 (11) The proposed location of all proposed medical
143 cannabis facilities as being suitable for all activities, not
144 inconsistent with applicable zoning, and the applicant's
145 ability to serve an identifiable geographic area.

146 (12) Whether the applicant meets other standards or
147 requirements established under this article or by rules
148 applicable to the license category.

149 (d) The commission shall review all applications for
150 licenses and shall determine whether to grant or deny a
151 license not more than 60 days after the date a license
152 application was submitted, or if an applicant was notified of
153 a deficiency under ~~subsection (g) of~~ Section 20-2A-55 (g), the
154 commission shall grant or deny a license not more than 60 days
155 after the deficiency was corrected.

156 ~~(e) After denial of a license, the commission, upon~~
157 ~~request, shall provide a public investigative hearing at which~~
158 ~~the applicant is given the opportunity to present testimony~~
159 ~~and evidence to establish its suitability for a license. Other~~
160 ~~testimony and evidence may be presented at the hearing, but~~
161 ~~the commission's decision must be based on the whole record~~
162 ~~before the commission and is not limited to testimony and~~
163 ~~evidence submitted at the public investigative hearing.~~

164 ~~(f)~~ (e) Before issuing a license, the applicant shall
165 pay the annual license fee, as established by the commission.

166 ~~(g)~~ (f) A license shall be issued annually. Except as
167 otherwise provided in this article, the commission shall renew
168 a license if both of the following requirements are met:



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169 (1) The licensee applies to the commission in a timely
170 manner on a renewal form provided by the commission that
171 requires information prescribed in rules and pays the annual
172 license fee.

173 (2) The licensee meets the requirements of this article
174 and any other renewal requirements set forth in the rules.

175 ~~(h)~~ (g) If a license renewal application is not
176 submitted by the license expiration date, the license may be
177 renewed within 60 days after its expiration date upon
178 application, payment of the annual license fee, and
179 satisfaction of any renewal requirement and late fee set forth
180 in rules. The licensee may continue to operate during the 60
181 days after the license expiration date if the license is
182 renewed by the end of the 60-day period.

183 ~~(i)~~ (h) License expiration does not terminate the
184 commission's authority to impose sanctions on a licensee whose
185 license has expired.

186 ~~(j)~~ (i) A licensee shall consent in writing to
187 inspections, examinations, searches, and seizures that are
188 permitted under this article.

189 ~~(k)~~ (j) An applicant or licensee has a continuing duty
190 to provide information requested by the commission and to
191 cooperate in any investigation, inquiry, or hearing conducted
192 by the commission. "

193 "§20-2A-57

194 (a) If any of the following occurs, the commission may
195 deny, suspend, revoke, or restrict a license:

196 (1) An applicant or licensee fails to comply with this



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197 article or rules.

198 (2) A licensee no longer meets the eligibility
199 requirements for a license under this article.

200 (3) An applicant or licensee fails to provide
201 information the commission requests to assist in any
202 investigation, inquiry, or commission hearing.

203 (b) The commission may impose civil fines of up to five
204 thousand dollars (\$5,000) against an individual and up to
205 twenty-five thousand dollars (\$25,000) or an amount equal to
206 the daily gross receipts, whichever is greater, against a
207 licensee for each violation of this article, rules, or an
208 order of the commission. Assessment of a civil fine under this
209 subsection is not a bar to the investigation, arrest,
210 charging, or prosecution of an individual for any other
211 violation of this article and is not grounds to suppress
212 evidence in any criminal prosecution that arises under this
213 article or any other law of this state.

214 (c) The commission shall comply with the hearing
215 procedures of the Administrative Procedure Act when denying,
216 revoking, suspending, or restricting a license or imposing a
217 fine. The commission may suspend a license without notice or
218 hearing upon a determination that the safety or health of
219 registered qualified patients, registered caregivers, or
220 employees is jeopardized by continuing a facility's operation.
221 If the commission suspends a license under this subsection
222 without notice or hearing, a prompt post-suspension hearing
223 must be held to determine if the suspension should remain in
224 effect. The suspension may remain in effect until the



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225 commission determines that the cause for suspension has been
226 abated. The commission may revoke the license or approve a
227 transfer or sale of the license upon a determination that the
228 licensee has not made satisfactory progress toward abating the
229 hazard.

230 (d) Any party aggrieved by an action of the commission
231 suspending, revoking, restricting, or refusing to renew a
232 license, or imposing a fine, shall be given a hearing before
233 the commission upon request. A request for a hearing must be
234 made to the commission in writing within 21 days after service
235 of notice of the action of the commission. Notice of the
236 action of the commission must be served either by personal
237 delivery or by certified mail, postage prepaid, to the
238 aggrieved party. Notice served by certified mail is considered
239 complete on the business day following the date of the
240 mailing.

241 (e) The commission may conduct investigative and
242 contested case hearings; issue subpoenas for the attendance of
243 witnesses; issue subpoenas duces tecum for the production of
244 books, ledgers, records, memoranda, electronically retrievable
245 data, and other pertinent documents; and administer oaths and
246 affirmations to witnesses as appropriate to exercise and
247 discharge the powers and duties of the commission under this
248 article.

249 (f) ~~Any~~ Except as provided in Section 20-2A-68, a
250 person aggrieved by an action of the commission under this
251 article, within 30 days after receiving notice of the action,
252 may appeal the action to the circuit court in the county where



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253 the commission is located."

254 "§20-2A-67

255 (a) An integrated facility license authorizes all of
256 the following:

257 (1) The cultivation of cannabis.

258 (2) The processing of cannabis into medical cannabis,
259 including proper packaging and labeling of medical cannabis
260 products.

261 (3) The dispensing and sale of medical cannabis only to
262 a registered qualified patient or registered caregiver.

263 (4) The transport of cannabis or medical cannabis
264 between its facilities.

265 (5) The sale or transfer of medical cannabis to a
266 dispensary.

267 (b) The commission may issue no more than ~~five~~ seven
268 integrated facility licenses.

269 (c) An integrated facility licensee shall have the same
270 authorizations granted to, and shall comply with all
271 requirements for, cultivators, processors, secure
272 transporters, and dispensaries, in addition to any other
273 authorizations or requirements under this section or as
274 established by rule by the commission.

275 (d) An applicant for an integrated facility license
276 shall provide all of the following:

277 (1) A letter of commitment or other acknowledgement, as
278 determined by commission rule, of the applicant's ability to
279 secure a performance bond issued by a surety insurance company
280 approved by the commission in the amount of two million



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281 dollars (\$2,000,000).

282 (2) Proof of at least two hundred fifty thousand
283 dollars (\$250,000) in liquid assets.

284 (3) Proof that the applicant has the financial ability
285 to maintain operations for not less than two years following
286 the date of application.

287 (e) The initial set of licenses for integrated
288 facilities shall be selected in accordance with Section
289 20-2B-67.1.

290 ~~(e)~~ (f) At the time a license is issued under this
291 section, the commission shall ensure that the licensee has
292 secured a performance bond as provided in subdivision (1) of
293 subsection (d).

294 ~~(f)~~ (g) A licensee may operate up to five dispensing
295 sites, each of which must be located in a different county
296 from any other dispensing site that the licensee operates;
297 provided, however, the commission may authorize a licensee to
298 operate a greater number of dispensing sites if, at least one
299 year after the date when the maximum number of total
300 dispensing sites authorized under this section and Section
301 20-2A-64 are operating, the commission determines that the
302 patient pool has reached a sufficient level to justify an
303 additional dispensing site in an underserved or unserved area
304 of the state. Notwithstanding the foregoing, a licensee may
305 not operate any dispensing site in the unincorporated area of
306 a county or in a municipality that has not adopted a
307 resolution or ordinance authorizing the operation of
308 dispensing sites under ~~subsection (e) of~~ Section 20-2A-51 (c).



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309 This subsection shall not be construed to limit wholesale
310 distribution from integrated facility licensees to dispensary
311 licensees."

312 "§20-2A-68

313 (a) A license issued under this article is a revocable
314 privilege granted by this state and is not a property right.
315 Granting a license does not create or vest any right, title,
316 franchise, or other property interest. A licensee or any other
317 person shall not lease, pledge, or borrow or loan money
318 against a license.

319 (b) The granting or denial of a license by the
320 commission shall be deemed final and conclusive by the courts
321 of this state as to any license applicant or license holder.
322 No action, claim, counterclaim, defense, or other legal
323 contention challenging the validity of a license shall be
324 brought or maintained in a court of this state by an
325 unsuccessful license applicant, and the courts of this state
326 shall be powerless and without jurisdiction to issue to an
327 unsuccessful license applicant an injunction, writ, order, or
328 any other form of relief that would have the effect of
329 preventing the commission from issuing a license or
330 invalidating a license previously awarded by the commission.

331 (c) A court shall promptly dismiss for lack of
332 jurisdiction any action, claim, counterclaim, defense, or
333 other legal contention or any request for an injunction, writ,
334 order, or other form of relief.

335 (d) Any court's injunction, writ, order, or other form
336 of relief that would have the effect of preventing the



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337 commission from granting a license or invalidating a license
338 awarded prior to the effective date of this act shall be
339 immediately appealable to the Alabama Supreme Court in the
340 same manner as a final order in the action.

341 (e) During the pendency of any appeal, the action in
342 the trial court shall be stayed in all respects."

343 Section 2. Section 20-2B-67.1 is added to the Code of
344 Alabama 1975, to read as follows:

345 §20-2B-67.1

346 (a) No later than October 1, 2025, the commission shall
347 hire, contract with, or otherwise secure a consultant to
348 select those applicants described in subsection (b) which will
349 be awarded an integrated facility license, as further provided
350 in this section. The consultant must be a nationally
351 recognized entity with expertise in financial auditing and
352 managerial consulting and which has offices in at least 15
353 states.

354 (b) Only those applicants that submitted a completed
355 application for an integrated facility license to the
356 commissioner by December 31, 2022, may participate in the
357 selection process provided in this section.

358 (c) Each participating applicant shall provide to the
359 commission, not later than October 1, 2025: (i) the name and
360 contact information of at least one individual whom the
361 consultant described in subsection (a) may contact as
362 necessary throughout the license selection process; and (ii)
363 any amendments to the original application to update
364 information particularly relating to financial interests and



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365 financial obligations so that all information pertaining to
366 the application is current. All information provided to the
367 commission pursuant to this section shall be provided under
368 oath affirming that the information is true and accurate.

369 (d) Not later than October 15, 2025, the commission
370 shall provide to the consultant the application and all
371 related documents submitted to the commission by a
372 participating applicant which was received by December 31,
373 2022, along with the updated application described in
374 subsection (c).

375 (e) The consultant shall base its selection of
376 participating applicants who should be granted integrated
377 facility licenses in accordance with the qualifications and
378 procedure for granting integrated facility licenses set forth
379 in this chapter and applicable rules adopted by the
380 commission. The consultant shall disqualify any applicant that
381 has not submitted sufficient information, as required under
382 this chapter and applicable rules, to form a basis on which
383 the consultant can make a selection.

384 (f) The consultant shall make its selection as soon as
385 practicable but in no event later than January 1, 2026, and
386 shall forthwith provide to the commission its final
387 determination and all information in the consultant's
388 possession as it relates to each applicant. The consultant's
389 final determination shall be considered for all legal purposes
390 to be a final determination made by the commission.

391 (g) The commission shall grant licenses no later than
392 February 1, 2026, to the applicants selected by the



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393 consultant.

394 (h) Officers and employees of the consultant shall be
395 immune from civil liability for actions taken by any officer
396 or employee pursuant to this section.

397 Section 3. This act shall become effective immediately.