



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 but would allow an unsuccessful applicant to appeal directly to the Alabama Court of Civil Appeals.

This bill would prohibit the Alabama Court of Civil Appeals from granting a stay of the commission's denial of a license unless the commission was without statutory authority or acted in an arbitrary and capricious manner, or the denial constituted gross abuse of discretion.

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



29 seven licenses.

30 This bill would require the Chief Examiner of
31 the Department of the Examiner of Public Accounts, in
32 consultation with the Director of Finance and the State
33 Health Officer, to contract with a consultant to
34 undertake the process of selecting, from the pool of
35 applicants that previously submitted an application for
36 a license by December 31, 2022, those applicants that
37 will be awarded a license based on the qualifications
38 and procedures set forth in the medical cannabis laws.

39 This bill would also require the commission to
40 grant licenses to the applicants selected by the
41 consultant and would provide that the selection
42 determination made by the consultant is considered a
43 final determination made by the commission for all
44 legal purposes.

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46
47 A BILL

48 TO BE ENTITLED

49 AN ACT

50
51 Relating to the Alabama Medical Cannabis Commission; to
52 amend Sections 20-2A-56, 20-2A-57, and 20-2A-68, Code of
53 Alabama 1975, to provide further for the administrative
54 process and appeal of a license granted or denied by the
55 commission; to amend Section 20-2A-67, Code of Alabama 1975,
56 to increase the number of integrated facility licenses; and to



add Section 20-2A-67.1 to the Code of Alabama 1975, to require the commission to hire a consultant and provide further for the process of selecting applicants to be granted integrated facility licenses by the commission.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§20-2A-56

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

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

(1) An owner, director, board member, or individual with a controlling interest in the applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years; provided,



85 however, the commission shall not consider any conviction
86 overturned on appeal or any charge that has been expunged
87 pursuant to Chapter 27 of Title 15.

88 (2) The applicant has knowingly submitted an
89 application for a license under this article that contains
90 false information.

91 (3) An owner, director, board member, or individual
92 with an economic interest in the applicant is a member of the
93 commission.

94 (4) The applicant fails to demonstrate the ability to
95 maintain adequate minimum levels of liability and casualty
96 insurance or other financial guarantees for its proposed
97 facility.

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

100 (6) For an applicant seeking an integrated facility
101 license or a cultivator license, the applicant cannot provide
102 records described in ~~subdivision (a) (11) of~~ Section
103 20-2A-55 (a) (11).

104 (7) The applicant fails to meet other criteria
105 established by rule.

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

108 (1) The integrity, moral character, and reputation;
109 personal and business probity; financial ability and
110 experience; and responsibility or means to operate or maintain
111 a facility of the applicant and of any other individual that
112 meets either of the following:



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

114 b. Is controlled, directly or indirectly, by the
115 applicant or by a person who controls, directly or indirectly,
116 the applicant.

117 (2) The financial ability of the applicant to maintain
118 required financial guarantees.

119 (3) The sources and total amount of the applicant's
120 capitalization to operate and maintain the proposed facility.

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

130 (5) Whether the applicant has filed, or had filed
131 against it, a proceeding for bankruptcy within the past seven
132 years.

133 (6) Whether the applicant has been served with a
134 complaint or other notice filed with any court or public
135 agency regarding payment of any tax required under federal,
136 state, or local law that has been delinquent for one or more
137 years.

138 (7) Whether the applicant has a history of
139 noncompliance with any regulatory requirements in this state
140 or any other jurisdiction.



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

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

146 (10) The applicant's history of business activities as
147 it applies to the specific license for which the applicant is
148 seeking licensure.

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

153 (12) Whether the applicant meets other standards or
154 requirements established under this article or by rules
155 applicable to the license category.

156 (d) The commission shall review all applications for
157 licenses and shall determine whether to grant or deny a
158 license not more than 60 days after the date a license
159 application was submitted, or if an applicant was notified of
160 a deficiency under ~~subsection (g) of~~ Section 20-2A-55 (g), the
161 commission shall grant or deny a license not more than 60 days
162 after the deficiency was corrected.

163 ~~(e) After denial of a license, the commission, upon~~
164 ~~request, shall provide a public investigative hearing at which~~
165 ~~the applicant is given the opportunity to present testimony~~
166 ~~and evidence to establish its suitability for a license. Other~~
167 ~~testimony and evidence may be presented at the hearing, but~~
168 ~~the commission's decision must be based on the whole record~~



~~before the commission and is not limited to testimony and evidence submitted at the public investigative hearing.~~

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

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

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

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

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

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

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

~~(k)~~ (j) An applicant or licensee has a continuing duty



to provide information requested by the commission and to cooperate in any investigation, inquiry, or hearing conducted by the commission. "

"§20-2A-57

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

(1) An applicant or licensee fails to comply with this article or rules.

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

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

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

(c) The commission shall comply with the hearing procedures of the Administrative Procedure Act when denying, revoking, suspending, or restricting a license or imposing a fine. The commission may suspend a license without notice or



225 hearing upon a determination that the safety or health of
226 registered qualified patients, registered caregivers, or
227 employees is jeopardized by continuing a facility's operation.
228 If the commission suspends a license under this subsection
229 without notice or hearing, a prompt post-suspension hearing
230 must be held to determine if the suspension should remain in
231 effect. The suspension may remain in effect until the
232 commission determines that the cause for suspension has been
233 abated. The commission may revoke the license or approve a
234 transfer or sale of the license upon a determination that the
235 licensee has not made satisfactory progress toward abating the
236 hazard.

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

248 (e) The commission may conduct investigative and
249 contested case hearings; issue subpoenas for the attendance of
250 witnesses; issue subpoenas duces tecum for the production of
251 books, ledgers, records, memoranda, electronically retrievable
252 data, and other pertinent documents; and administer oaths and



affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the commission under this article.

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

"§20-2A-67

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

(1) The cultivation of cannabis.

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

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

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

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

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

(c) An integrated facility licensee shall have the same authorizations granted to, and shall comply with all requirements for, cultivators, processors, secure transporters, and dispensaries, in addition to any other authorizations or requirements under this section or as



established by rule by the commission.

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

(1) A letter of commitment or other acknowledgement, as determined by commission rule, of the applicant's ability to secure a performance bond issued by a surety insurance company approved by the commission in the amount of two million dollars (\$2,000,000).

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

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

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

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

~~(f)~~ (g) A licensee may operate up to five dispensing sites, each of which must be located in a different county from any other dispensing site that the licensee operates; provided, however, the commission may authorize a licensee to operate a greater number of dispensing sites if, at least one year after the date when the maximum number of total dispensing sites authorized under this section and Section 20-2A-64 are operating, the commission determines that the



309 patient pool has reached a sufficient level to justify an
310 additional dispensing site in an underserved or unserved area
311 of the state. Notwithstanding the foregoing, a licensee may
312 not operate any dispensing site in the unincorporated area of
313 a county or in a municipality that has not adopted a
314 resolution or ordinance authorizing the operation of
315 dispensing sites under ~~subsection (c) of~~ Section 20-2A-51 (c).
316 This subsection shall not be construed to limit wholesale
317 distribution from integrated facility licensees to dispensary
318 licensees."

319 "§20-2A-68

320 (a) A license issued under this article is a revocable
321 privilege granted by this state and is not a property right.
322 Granting a license does not create or vest any right, title,
323 franchise, or other property interest. A licensee or any other
324 person shall not lease, pledge, or borrow or loan money
325 against a license.

326 (b) The granting or denial of a license by the
327 commission shall be deemed final and conclusive except as
328 provided in subsections (c) and (d). No action, claim,
329 counterclaim, defense, or other legal contention challenging
330 the validity of a license shall be brought or maintained in a
331 district or circuit court of this state by an unsuccessful
332 license applicant, and the district and circuit courts of this
333 state shall be powerless and without jurisdiction to issue to
334 an unsuccessful license applicant an injunction, writ, order,
335 or any other form of relief that would have the effect of
336 preventing the commission from issuing a license or



337 invalidating a license previously awarded by the commission.

338 (c) An unsuccessful license applicant denied a license
339 by the commission may seek judicial review of the denial by
340 filing a written petition for review with the Alabama Court of
341 Civil Appeals and otherwise proceeding in accordance with
342 Section 41-22-20.

343 (d) Notwithstanding Section 41-22-20(c), the denial of
344 a license shall be given immediate effect, and the Court of
345 Civil Appeals may not grant a stay or supersedeas pending
346 judicial review of the commission's denial of a license unless
347 the court finds in writing, upon proof by substantial evidence
348 by the applicant seeking judicial review, that the denial of a
349 license by the commission was taken without statutory
350 authority, was arbitrary or capricious, or constituted a gross
351 abuse of discretion. Notwithstanding any law to the contrary,
352 any action commenced for the purpose of seeking judicial
353 review of an administrative decision of the commission,
354 including a writ of mandamus or judicial review, must be
355 filed, commenced, and maintained in the Court of Civil
356 Appeals."

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

359 §20-2B-67.1

360 (a) No later than July 1, 2025, the Chief Examiner of
361 the Department of Examiners of Public Accounts, in
362 consultation with the Director of Finance and the State
363 Health Officer, shall submit a request for proposal to procure
364 the services of a consultant in accordance with Section



41-4-133. Once a contract is awarded, the consultant shall be responsible for selecting those applicants described in subsection (b) which will be awarded an integrated facility license, as further provided in this section. The consultant must be a nationally recognized entity with expertise in financial auditing and managerial consulting and which has offices in at least 15 states. The consultant's costs shall be paid by the commission.

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

(c) Each participating applicant shall provide to the commission, not later than October 1, 2025: (i) the name and contact information of at least one individual whom the consultant described in subsection (a) may contact as necessary throughout the license selection process; and (ii) any amendments to the original application to update information particularly relating to financial interests and financial obligations so that all information pertaining to the application is current. All information provided to the commission pursuant to this section shall be provided under oath affirming that the information is true and accurate.

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



subsection (c).

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

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

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

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

Section 3. This act shall become effective immediately.