

West's Arkansas Code Annotated
Constitution of the State of Arkansas of 1874
Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 9

§ 9. Registration and certification of cultivation facility agents and dispensary agents

- (a)(1) Cultivation facility agents and dispensary agents shall register with the Alcoholic Beverage Control Division.
- (2) The division shall administer and enforce the provisions of this amendment concerning cultivation facility agents and dispensary agents, including without limitation the issuance of a:
- (A) Registry identification card to a dispensary agent; and
 - (B) Registry identification card to a cultivation facility agent.
- (b)(1) The division shall adopt rules necessary to:
- (A) Carry out the purposes of this amendment; and
 - (B) Perform its duties under this amendment.
- (2) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (c) Not later than one hundred eighty (180) days after the effective date of this amendment, the division shall adopt rules governing:
- (1) The manner in which the division considers applications for and renewals of registry identification cards for dispensary agents and cultivation facility agents;
 - (2) The form and content of registration and renewal applications for dispensary agents and cultivation facility agents;
 - (3) Procedures for suspending or terminating the registration of dispensary agents and cultivation facility agents that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties; and

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(4) Any other matters necessary to the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(d)(1) The division shall conduct criminal background checks in order to carry out this section.

(2) The division shall require each applicant for a dispensary agent license or cultivation facility agent license to apply for or authorize the division to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(3) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(4) The applicant shall authorize the release of the criminal background checks to the division and shall be responsible for the payment of any fee associated with the criminal background checks.

(5) Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the division all information obtained concerning the applicant.

(e) Except as provided herein, the division shall issue each dispensary agent and cultivation facility agent a registry identification card within ten (10) days of receipt of:

(1) The person's name, address, and date of birth under this amendment; and

(2) A reasonable fee in an amount established by rule of the division.

(f)(1) The division shall not issue a registry identification card to a dispensary agent or cultivation facility agent who has been convicted of an excluded felony offense.

(2) The division shall conduct a criminal background check as described in subsection (d) of this section of each dispensary agent or cultivation facility agent in order to carry out this provision.

(3) The division shall notify the dispensary or cultivation facility in writing of the reason for denying the registry identification card.

(g)(1) A registry identification card for a dispensary agent or cultivation facility agent shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.

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(2) A registry identification card of a dispensary agent or cultivation facility agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the dispensary or cultivation facility.

(h) The division may charge a reasonable fee as established by rule for the issuance of a new, renewal or replacement registry identification card.

(i)(1) The division may revoke the registry identification card of a dispensary agent or cultivation facility agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.

(2) The division may revoke or suspend the dispensary license or cultivation facility license of a dispensary or cultivation facility that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the licensesholder is subject to any other penalties established in law for the violation.

(j) The division may collect fines or fees for any violation of a rule adopted under this section.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 4, § 7, eff. Jan. 23, 2017, retroactive to Nov. 9, 2016; Acts of 2017, Act 545, §§ 3, 4, eff. Aug. 1, 2017; Acts of 2017, Act 594, § 3, eff. Aug. 1, 2017; Acts of 2017, Act 639, § 3, eff. Aug. 1, 2017.

Const. Amend. 98, § 9, AR CONST Amend. 98, § 9

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

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AR Const. Amend. 98, § 10

§ 10. Dispensary and cultivation facility inspections and requirements

(a) Dispensaries and cultivation facilities are highly regulated by the state, and a dispensary and cultivation facility is therefore subject to reasonable inspection by the Alcoholic Beverage Control Division.

(b)(1) This subsection governs the operations of dispensaries and cultivation facilities.

(2) A dispensary and a cultivation facility shall be an entity incorporated in the State of Arkansas.

(3) A dispensary and cultivation facility shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

(4) A dispensary and cultivation facility shall have procedures in place to ensure accurate recordkeeping.

(5) Each dispensary shall keep the following records, dating back at least three (3) years:

(A) Records of the disposal of marijuana that is not distributed by the dispensary to qualifying patients; and

(B) A record of each transaction, including the amount of marijuana dispensed, the amount of compensation, and the registry identification number of the qualifying patient or designated caregiver.

(6) Each dispensary and cultivation facility shall:

(A) Conduct an initial comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location on the date the dispensary first dispenses usable marijuana or the cultivation facility first cultivates, prepares, manufactures, processes, or packages usable marijuana; and

(B) Conduct a biannual comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location.

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(7) All cultivation of marijuana shall take place in an enclosed, locked facility.

(8)(A) A qualifying patient or designated caregiver acting on behalf of a qualifying patient shall not be dispensed more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana during a fourteen-day period.

(B) A dispensary or a dispensary agent may not dispense more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to either a qualifying patient or designated caregiver acting on behalf of a qualifying patient during a fourteen-day period.

(C) Each time a dispensary agent dispenses usable marijuana to a qualifying patient or designated caregiver, he or she shall verify that the dispensing of usable marijuana would not cause the qualifying patient or designated caregiver to receive more usable marijuana than is permitted in a fourteen-day period.

(D) Each time usable marijuana is dispensed, the dispensary agent shall:

(i) Record the date the usable marijuana was dispensed and the amount dispensed; and

(ii) Notify the Department of Health in the manner required by the department.

(E) The department shall maintain a database that enables a dispensary to verify that dispensing usable marijuana to a qualifying patient or designated caregiver will not cause the qualifying patient or designated caregiver to exceed the amount allowed by law.

(F) All records shall be kept according to the registry identification number of the qualifying patient or designated caregiver.

(G) It is the specific intent of this Amendment that no qualifying patient or designated caregiver acting on behalf of a qualifying patient be dispensed more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana during a fourteen-day period whether the usable marijuana is dispensed from one or any combination of dispensaries.

(9) The dispensary records with patient information shall be treated as confidential records that are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; Acts of 2017, Act 5, § 3, eff. Aug. 1, 2017.

Const. Amend. 98, § 10, AR CONST Amend. 98, § 10

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AR Const. Amend. 98, § 11

§ 11. Immunity for dispensaries and cultivation facilities

Currentness

(a) A dispensary, cultivation facility, transporter, distributor, or processor is not subject to the following:

(1) Prosecution for the acquisition, possession, cultivation, processing, preparation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies in accordance with the provisions of this amendment and any rule adopted under this amendment;

(2) Inspection, except under § 10 of this amendment or upon a search warrant issued by a court or judicial officer;

(3) Seizure of marijuana, except upon any order issued by a court or judicial officer and with due process of law; or

(4) Imposition of a penalty or denial of a right or privilege, including without limitation imposition of a civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this amendment.

(b)(1) A dispensary agent, cultivation facility agent, transporter agent, distributor agent, or processor agent shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including without limitation civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a dispensary, cultivation facility, transporter, distributor, or processor to engage in acts permitted by this amendment.

(2)(A) A dispensary agent, cultivation facility agent, or processor agent may possess and manufacture marijuana at the dispensary, cultivation facility, or processor location or locations for which the dispensary agent, cultivation facility agent, or processor agent is registered or when transferring marijuana under this section.

(B)(i) A dispensary agent who is a volunteer may possess and manufacture marijuana at a dispensary location.

(ii) A dispensary agent who is a volunteer may not dispense or transport marijuana.

(3) A cultivation facility and processor shall label the marijuana that is moved between the cultivation facility or processor and a dispensary, other cultivation facility, or processor with a trip ticket that identifies the cultivation facility by identification

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number, the time, date, origin, and destination of the marijuana being transported, and the amount and form of marijuana that is being transported.

(4) A transporter agent or distributor agent may possess marijuana at any location while the transporter agent or distributor agent is transferring marijuana from a dispensary, cultivation facility, or processor to another dispensary, cultivation facility, or processor.

(c) Importation of seeds, cuttings, clones, or plants by a dispensary or cultivation facility shall not be prosecuted in the courts of this state.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 642, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 1022, § 1, eff. Aug. 1, 2017.

Const. Amend. 98, § 11, AR CONST Amend. 98, § 11

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AR Const. Amend. 98, § 12

§ 12. Prohibitions for dispensaries

(a)(1) Except as provided in § 3 of this amendment and subdivision (a)(2) of this section, a dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or designated caregiver.

(2) A dispensary may transfer marijuana to a transporter, distributor, or processor to operate to extent of the license of the transporter, distributor, or processor.

(b)(1) Except as provided in § 3 of this amendment, the Alcoholic Beverage Control Division shall immediately revoke the registry identification card of a dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient or designated caregiver, and that dispensary agent shall be disqualified from serving as a dispensary agent.

(2) A dispensary employing a dispensary agent found to violate subdivision (b)(1) of this section is not subject to penalties, including without limitation the revocation of its license, for the actions of a dispensary agent unless the dispensary knowingly aided or facilitated the violation.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 642, § 2, eff. Aug. 1, 2017.

Const. Amend. 98, § 12, AR CONST Amend. 98, § 12

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AR Const. Amend. 98, § 13

§ 13. Prohibitions for cultivation facilities

(a) A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary, other cultivation facility, or processor.

(b) A cultivation facility may employ a transporter or a distributor to transfer marijuana from the cultivation facility to a dispensary, other cultivation facility, or processor.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 642, § 2, eff. Aug. 1, 2017.

Const. Amend. 98, § 13, AR CONST Amend. 98, § 13

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AR Const. Amend. 98, § 14

§ 14. Local regulation

(a) This amendment does not prohibit a city, incorporated town, or county of this state from enacting reasonable zoning regulations applicable to dispensaries or cultivation facilities, provided that those zoning regulations are the same as those for a licensed retail pharmacy.

(b) This section does not allow a city, incorporated town, or county to prohibit the operation of any dispensaries or cultivation facilities in the city, incorporated town, or county unless such a prohibition is approved at an election under Article 5, § 1, of this constitution.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 14, AR CONST Amend. 98, § 14

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§ 15. Prohibited conduct for physicians, AR CONST Amend. 98, § 15

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AR Const. Amend. 98, § 15

§ 15. Prohibited conduct for physicians

A physician shall not:

- (1) Accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary or cultivation facility provided however, that this does not prohibit a physician who is also a qualifying patient from purchasing usable marijuana from a dispensary;
- (2) Offer a discount or other thing of value to a qualifying patient who uses or agrees to use a particular dispensary;
- (3) Examine a patient for purposes of diagnosing a qualifying medical condition at a dispensary; or
- (4) Hold an economic interest in a dispensary or cultivation facility if the physician certifies the qualifying medical condition of a patient for medical use of marijuana.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, *eff.* Nov. 9, 2016.

Const. Amend. 98, § 15, AR CONST Amend. 98, § 15

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

§ 16. Failure to adopt rules or issue registry identification..., AR CONST Amend...

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AR Const. Amend. 98, § 16

§ 16. Failure to adopt rules or issue registry identification cards or licenses

If the Department of Health, Alcoholic Beverage Control Division, or Medical Marijuana Commission fails to adopt rules to implement this amendment within the time prescribed or fails to issue the minimum number of dispensary licenses or cultivation facility licenses, any person who would be a qualifying patient under this amendment may commence a mandamus action in Pulaski County Circuit Court to compel the department, division, or commission to perform the actions mandated under the provisions of this amendment.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 16, AR CONST Amend. 98, § 16

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AR Const. Amend. 98, § 17

§ 17. Taxation and distribution of proceeds.

(a)(1) The sale of usable marijuana is subject to all state and local sales taxes at the same rate as other tangible personal property.

(2) The sale of usable marijuana is also subject to the Arkansas Medical Marijuana Special Privilege Tax Act of 2017, § 26-57-1501 et seq., or its successor.

(b) The state sales and special privilege tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under this amendment shall be distributed as follows:

(1) All moneys received as part of this amendment are designated as special revenue and the funds collected shall be deposited into the State Treasury and credited to the Arkansas Medical Marijuana Implementation and Operations Fund;

(2) All moneys received as part of this amendment prior to the effective date of this section shall be immediately transferred to the Arkansas Medical Marijuana Implementation and Operations Fund upon the effective date of this section;

(3) In order for the Chief Fiscal Officer of the State to determine the expenses that state agencies incurred due to the passage of this amendment, the following state entities shall submit a report to the Chief Fiscal Officer of the State no later than May 1 of each year of the projected expenses for the next fiscal year, including without limitation expenses as set out in subdivision (b)(4) of this section:

(A) The Alcoholic Beverage Control Division of the Department of Finance and Administration;

(B) The Department of Health;

(C) The Medical Marijuana Commission; and

(D) Any other state agency that incurs implementation, administration, or enforcement expenses related to this amendment; and

§ 17. Taxation and distribution of proceeds., AR CONST Amend. 98, § 17

(4)(A) From time to time, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the Treasurer of State and the Auditor of State the amounts as set out in subdivision (b)(3) of this section or so much as is available in proportion to the amount identified by each agency in subdivision (b)(3) of this section from the Arkansas Medical Marijuana Implementation and Operations Fund to the Miscellaneous Agencies Fund Account for the Alcoholic Beverage Control Division of the Department of Finance and Administration, the paying account as determined by the Chief Fiscal Officer for the Department of Health, the Medical Marijuana Commission Fund, and any other fund necessary to the implementation, administration, or enforcement of this amendment to pay for or reimburse personal services, operating expenses, professional fees, equipment, monitoring, auditing, and other miscellaneous expenses of this amendment.

(B) At the end of each fiscal year, any unobligated balances of the amounts transferred shall be deducted from the amount transferred in the next fiscal year as authorized in subdivision (b)(4)(A) of this section.

(C) Any unanticipated expenses or expenses over the amount transferred may be added from time to time to the transfer amount authorized in subdivision (b)(4)(A) of this section.

(D) The Department of Finance and Administration shall report at the end of the fiscal year to the Legislative Council, or to the Joint Budget Committee if during a legislative session, the following information:

(i) The total annual amount received as a result of this amendment;

(ii) The amount transferred to each agency; and

(iii) Copies of the report submitted to the Chief Fiscal Officer of the State identifying estimated expenses as set out in subdivision (b)(3) of this section.

(c) After the transfer described in subsection (b) of this section, the amounts remaining in the Arkansas Medical Marijuana Implementation and Operations Fund shall be distributed one hundred percent (100%) to the General Revenue Fund Account.

(d) An entity receiving a grant of state sales tax revenue under subsection (b) of this section may make one (1) or more successive grant applications for the same project or projects.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 1098, § 1, eff. July 1, 2017; Acts of 2017, Act 670, § 1, eff. Aug. 1, 2017; Acts of 2017 (1st Ex. Sess.), Act 1, § 7, eff. July 31, 2017; Acts of 2017 (1st Ex. Sess.), Act 8, § 7, eff. July 31, 2017.

Const. Amend. 98, § 17, AR CONST Amend. 98, § 17

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AR Const. Amend. 98, § 18

§ 18. Costs of administration and regulation of amendment

(a) The following funds shall be used by the Department of Health to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2)(A) The revenue generated from fees, penalties, and other assessments of the department provided for by this amendment, including without limitation:

(i) Registry identification card application and renewal fees; and

(ii) Fees for replacement registry identification cards.

(B) Revenue generated from fees, penalties, and other assessments under this amendment shall be used solely for the performance of the department's duties under this amendment and shall be used for no other purpose;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

(b) The following funds shall be used by the Alcoholic Beverage Control Division to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2)(A) The revenue generated from fees, penalties, and other assessments of the division provided for by this amendment.

(B) Revenue generated from fees, penalties, and other assessments of the division under this amendment shall be used solely for the performance of the division's duties under this amendment and shall be used for no other purpose;

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(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

(c) The following funds shall be used by the Medical Marijuana Commission to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2) The revenue generated from fees, penalties, and other assessments of the commission provided for by this amendment, including without limitation dispensary and cultivation facility application fees, licensing fees, and renewal fees;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 18, AR CONST Amend. 98, § 18

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AR Const. Amend. 98, § 19

§ 19. Medical Marijuana Commission--Creation

(a)(1) There is created a Medical Marijuana Commission within the Department of Finance and Administration to determine the qualifications for receiving a license to operate a dispensary or a license to operate a cultivation facility and the awarding of licenses.

(2) Each member of the commission shall serve a term of four (4) years.

(3) The commission shall consist of five (5) members as follows:

(A) Two (2) members appointed by the President Pro Tempore of the Senate;

(B) Two (2) members appointed by the Speaker of the House of Representatives; and

(C) One (1) member appointed by the Governor.

(4) Vacancies on the commission shall be filled in the manner of the original appointment.

(5) The commission shall select one (1) of its members as chair.

(6) An affirmative vote of a majority of a quorum present shall be necessary to transact business.

(b)(1)(A) One (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of two (2) years and one (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of four (4) years.

(B) The initial members appointed by the President Pro Tempore of the Senate shall draw lots to determine which member shall serve a term of two (2) years.

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(2)(A) One (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of two (2) years and one (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of four (4) years.

(B) The initial members appointed by the Speaker of the House of Representatives shall draw lots to determine which member shall serve a term of two (2) years.

(3) The initial member appointed by the Governor shall serve a term of four (4) years.

(4) All subsequent persons appointed to the commission shall serve a term of four (4) years.

(c) A member of the commission shall be:

(1) A citizen of the United States;

(2) A resident of the State of Arkansas for at least ten (10) years preceding his or her appointment;

(3) A qualified elector;

(4) At least twenty-five (25) years of age; and

(5) Have no economic interest in a dispensary or cultivation facility.

(d)(1) The commission, by a majority vote of the total membership of the commission cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars (\$85.00) per day for each meeting attended or for any day while performing any proper business of the commission.

(2) Members of the commission shall receive no other compensation, expense reimbursement, or in-lieu-of payments.

(e)(1) The commission may employ staff necessary to assist in the performance of its duties under this amendment.

(2) The Alcoholic Beverage Control Division shall provide staff for the commission if the commission does not have employees available for that purpose.

(f)(1) Initial members of the commission shall be appointed within thirty (30) days of the effective date of this section.

(2) The President Pro Tempore of the Senate shall call the first meeting of the commission, which shall occur within forty-five (45) days of the effective date of this section.

§ 19. Medical Marijuana Commission--Creation, AR CONST Amend. 98, § 19

Credits

Added by initiative petition approved at Nov. 3, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 633, § 1, eff. Aug. 1, 2017.

Const. Amend. 98, § 19, AR CONST Amend. 98, § 19

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

§ 20. No implied repeal, AR CONST Amend. 98, § 20

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AR Const. Amend. 98, § 20

§ 20. No implied repeal

(a) By adoption of this amendment, there is no implied repeal of the existing Arkansas laws criminalizing possession of marijuana for purposes not specified in this amendment.

(b) This amendment acknowledges that marijuana use, possession, and distribution for any purpose remains illegal under federal law.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 20, AR CONST Amend. 98, § 20

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

§ 21. Limitation on growing, AR CONST Amend. 98, § 21

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AR Const. Amend. 98, § 21

§ 21. Limitation on growing

Currentness

This amendment:

- (1) Authorizes the growing of marijuana at a dispensary or cultivation facility that is properly licensed with the state; and
- (2) Does not authorize a qualifying patient, designated caregiver, or other person to grow marijuana.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 21, AR CONST Amend. 98, § 21

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AR Const. Amend. 98, § 22

§ 22. Severability

If any provision or section of this amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or application of the amendment that can be given effect without the invalid provisions or applications, and to this end the provisions of this amendment are declared to be severable.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 22, AR CONST Amend. 98, § 22

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AR Const. Amend. 98, § 23

§ 23. Amendment by General Assembly

(a) Except as provided in subsection (b) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend the sections of this amendment so long as the amendments are germane to this section and consistent with its policy and purposes.

(b) The General Assembly shall not amend the following provisions of this amendment:

- (1) Subsections (a), (b), and (c) of § 3;
- (2) Subsection (h), (i), and (j) of § 8; and
- (3) Section 23.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 23, AR CONST Amend. 98, § 23

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West's Arkansas Code Annotated
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Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 24

§ 24. Licensure for transporters, distributors, and processors

- (a)(1) The Medical Marijuana Commission shall license transporters, distributors, and processors.
- (2) The Alcoholic Beverage Control Division shall administer and enforce the provisions of this section concerning transporters, distributors, and processors.
- (b) The owners, board members, or officers of a transporter, distributor, or processor shall not:
- (1) Have been convicted of an excluded felony offense;
- (2) Have previously been an owner of a dispensary, cultivation facility, transporter, distributor, or processor that has had a license revoked; and
- (3) Be under twenty-one (21) years of age.
- (c) The commission may conduct a criminal records check in order to carry out this section.
- (d)(1) A transporter license, distributor license, and processor license shall expire one (1) year after the date of issuance.
- (2) The commission shall issue a renewal license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.
- (e) The commission may charge a reasonable fee as established by rule for the issuance of an initial license and a renewal license.
- (f)(1)(A) A transporter or distributor licensed under this section may:
- (i) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and

§ 24. Licensure for transporters, distributors, and processors, AR CONST Amend. 98, § 24

(ii) Receive compensation for providing services allowed by this section.

(B) A transporter or distributor licensed under this section shall not grow, manufacture, process, prepare, supply, or dispense marijuana.

(2)(A) A processor licensed under this section may:

(i) Acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility; and

(ii) Receive compensation for providing services allowed by this section.

(B) A processor licensed under this section shall not grow or dispense marijuana.

(g) The division may make reasonable inspections on a transporter, distributor, and processor to ensure that the transporter, distributor, and processor:

(1) Is an entity incorporated in the State of Arkansas;

(2) Has implemented appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana;

(3) Conducts an initial comprehensive inventory of all marijuana and a biannual comprehensive inventory of all marijuana; and

(4) Records each transaction between the transporter, distributor, or processor and a dispensary, cultivation facility, or another processor and maintains the records for three (3) years;

(5) Has adopted procedures to ensure accurate recordkeeping.

(h)(1) The commission shall adopt rules governing the applications for a transporter license, distributor license, or processor license.

(2) The division shall adopt rules governing:

(A) Oversight requirements for transporters, distributors, and processors;

(B) Recordkeeping requirements for transporters, distributors, and processors;

§ 24. Licensure for transporters, distributors, and processors, AR CONST Amend. 98, § 24

(C) Security requirements for transporters, distributors, and processors;

(D) Personnel requirements for transporters, distributors, and processors;

(E) The manufacture, processing, packaging, and dispensing of usable marijuana to qualifying patients and designated caregivers;

(F) Procedures for suspending or terminating the licenses of transporters, distributors, and processors that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(G) Procedures for inspections and investigations of transporters, distributors, and processors;

(H) Advertising restrictions for transporters, distributors, and processors; and

(J)¹ Any other matters necessary to the fair, impartial, stringent, and comprehensive administration of the duties of the division under this section.

Credits

Added by Acts of 2017, Act 642, § 3, eff. Aug. 1, 2017.

Footnotes

¹ Paragraph designation so in enrolled act. Probably should be "(I)".

Const. Amend. 98, § 24, AR CONST Amend. 98, § 24

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Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 25

§ 25. Registration and certification of transporter agents, distributor agents, and processor agents

(a) The Alcoholic Beverage Control Division shall:

(1) License transporter agents, distributor agents, and processor agents; and

(2) Administer and enforce the provisions of this section concerning transporter agents, distributor agents, and processor agents.

(b) The division may conduct criminal records checks in order to carry out this section.

(c) Except as prohibited by subdivision (d)(1) of this section, the division shall issue each transporter agent, distributor agent, and processor agent a registry identification card within ten (10) days of receipt of:

(1) The person's name, address, and date of birth under this amendment; and

(2) A reasonable fee in an amount established by rule for the division.

(d)(1) The division shall not issue a registry identification card to a transporter agent, distributor agent, or processor agent who has been convicted of an excluded felony offense.

(2) The division may conduct a criminal background check of each transporter agent, distributor agent, and processor agent in order to carry out this provision.

(3) The division shall notify the transporter, distributor, or processor in writing of the reason for denying the registry identification card.

(e)(1) A registry identification card for a transporter agent, distributor agent, or processor agent shall expire one (1) year after the date of issuance.

§ 25. Registration and certification of transporter agents...., AR CONST Amend....

- (2) A registry identification card of a transporter agent, distributor agent, or processor agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the transporter, distributor, or processor.
- (f) The division may charge a reasonable fee as established by rule for the issuance of a new, renewal, or replacement registry identification card.
- (g)(1) The division may revoke the registry identification card of a transporter agent, distributor agent, or processor agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.
- (2) The division may revoke or suspend the transporter license, distributor license, or processor license of a transporter, distributor, or processor that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the cardholder is subject to any other penalties established in law for the violation.
- (h) The division shall adopt rules governing:
- (1) The manner in which the division considers applications for and renewals of registry identification cards for transporter agents, distributor agents, and processor agents;
- (2) The form and content of registration and renewal applications for transporter agents, distributor agents, and processor agents;
- (3) Procedures for suspending or terminating the registration of transporter agents, distributor agents, and processor agents who violate the provisions of this section or the rules adopted under this section, procedures for appealing penalties, and a schedule of penalties; and
- (4) Any other matters necessary for the fair, impartial, stringent, and comprehensive administration of the duties of the division under this section.

Credits

Added by Acts of 2017, Act 642, § 3, eff. Aug. 1, 2017.

Const. Amend. 98, § 25, AR CONST Amend. 98, § 25

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Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 26

§ 26. Acts amending Arkansas Medical Marijuana Amendment of 2016

(a)(1) If an act of the General Assembly amends one (1) or more sections of this amendment under § 23 of this amendment, the Arkansas Code Revision Commission may, by a majority vote of the commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

- (A) Correct the spelling of words;
- (B) Change capitalization for the purpose of uniformity;
- (C) Correct manifest typographical and grammatical errors;
- (D) Correct manifest errors in references to laws and other documents;
- (E) Correct manifest errors in internal reference numbers;
- (F) Number, renumber, redesignate, and rearrange the provisions of this amendment at issue;
- (G) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (H) Insert or delete hyphens in words to follow correct grammatical usage;
- (I) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (J) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (K) Correct punctuation; and

§ 26. Acts amending Arkansas Medical Marijuana..., AR CONST Amend...

(1.) Change gender-specific language to gender-neutral language.

(2)(A) If more than one (1) act amending a section of this amendment under § 23 of this amendment is enacted by the General Assembly during the same session, the commission may, by a majority vote of the commission, revise this amendment as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging sections, subsections, and subdivisions of this amendment.

(B) In the event that one (1) or more acts amending a section of this amendment under § 23 of this amendment result in an irreconcilable conflict with one (1) or more acts amending a section of this amendment enacted during the same session, the commission may, by a majority vote of the commission, revise this amendment so that the conflicting provision of the last enactment prevails.

(b) If the commission makes revisions under subsection (a) of this section, the commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(1) Explains the revisions made under subsection (a) of this section; and

(2) Includes the text of this amendment as amended by the revisions made under subsection (a) of this section.

Credits

Acts of 2019, Act 694, § 6, eff. April 4, 2019.

Const. Amend. 98, § 26, AR CONST Amend. 98, § 26

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