

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40568-MGxfa-134

Short Title: North Carolina Medical Cannabis Act. (Public)

Sponsors: Representative Alexander.

Referred to:

A BILL TO BE ENTITLED

AN ACT LEGALIZING THE MEDICAL USE OF CANNABIS; DIRECTING THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO ADOPT RULES ESTABLISHING A LICENSING PROCESS FOR THE CULTIVATION OF MEDICAL CANNABIS AND THE MANUFACTURING OF MEDICAL CANNABIS PRODUCTS; DIRECTING THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ADOPT RULES FOR THE ESTABLISHMENT, LICENSING, AND OPERATION OF MEDICAL CANNABIS DISPENSARIES; ESTABLISHING AND APPROPRIATING FUNDS FOR A SOCIAL EQUITY REINVESTMENT GRANT PROGRAM TO ENCOURAGE PARTICIPATION IN THE MEDICAL CANNABIS INDUSTRY BY INDIVIDUALS HIT HARDEST BY THE WAR ON CANNABIS; EXPUNGING MISDEMEANOR AND FELONY MARIJUANA OFFENSES; SPECIFYING UNLAWFUL CONDUCT INVOLVING THE MEDICAL USE OF CANNABIS; TAXING MEDICAL MARIJUANA; AND ESTABLISHING A UNIVERSITY CANNABIS EQUITY INVESTMENT FUND.

The General Assembly of North Carolina enacts:

PART I. LEGALIZATION OF THE MEDICAL USE OF CANNABIS

SECTION 1.1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 43.

"Medical Cannabis.

"§ 90-730. Definitions.

The following definitions apply in this Article:

(1) "Adequate supply" has the following meanings:

- a. An amount of usable cannabis derived solely from an intrastate source that is possessed by a qualified patient, or collectively possessed by a qualified patient and the qualified patient's designated caregiver, in an amount that does not exceed what is reasonably necessary to assure the uninterrupted availability of cannabis for a period of three months, in any form recommended by the qualified patient's physician for the purpose of alleviating the symptoms or effects of the qualified patient's debilitating medical condition.
- b. For a qualified patient for whom a delivery method of inhalation of cannabis vapor or smoking is recommended by the qualified patient's



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1 physician, "adequate supply" means not more than 24 ounces of
2 cannabis in a form usable for that purpose.

3 (2) "Bona fide health care provider-patient relationship" means a physician,
4 physician assistant, or nurse practitioner and a patient have a treatment or
5 counseling relationship in which the physician, physician assistant, or nurse
6 practitioner has completed a full assessment of the patient's medical history
7 and current medical condition, including an appropriate physical examination,
8 and the physician, physician assistant, or nurse practitioner is available or
9 offers to provide follow-up care and treatment to the patient, including patient
10 examinations, to determine the efficacy of the use of medical cannabis as a
11 treatment for the patient's medical condition.

12 (3) "Cannabis" means marijuana as defined in G.S. 90-87(16).

13 (4) "Health care provider" means a physician, physician assistant, or nurse
14 practitioner licensed under Article 1 of Chapter 90 of the General Statutes,
15 who is in good standing to practice medicine in this State and authorized to
16 prescribe controlled substances in this State.

17 (5) "Medical use of cannabis" or "medical use" means the acquisition, possession,
18 use, internal possession, delivery, transfer, or transportation of cannabis or
19 paraphernalia relating to the administration of cannabis to treat or alleviate a
20 qualified patient's medical condition or symptoms associated with the medical
21 condition or its treatment.

22 (6) "Qualified patient" means a person who has been diagnosed by a physician as
23 having a debilitating medical condition.

24 (7) "Written certification" means a statement in a patient's medical records or a
25 statement signed by a health care provider with whom the patient has a bona
26 fide health care provider-patient relationship indicating that, in the health care
27 provider's professional opinion, the patient has a medical condition that may
28 benefit from the medical use of cannabis and the potential health benefits of
29 the medical use of cannabis would likely outweigh the health risks for the
30 patient.

31 **§ 90-730.1. Health care provider and patient protections for the medical use of cannabis.**

32 (a) A qualified patient shall not be subject to arrest, prosecution, or penalty in any
33 manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary
34 action by a business or occupational or professional licensing board or bureau, for the possession
35 or purchase of cannabis for medical use by the qualified patient if all of the following conditions
36 are met:

37 (1) The quantity of usable cannabis possessed or purchased does not exceed an
38 adequate supply, as determined by the qualified patient's physician.

39 (2) The qualified patient is in possession of a written certification from a
40 physician.

41 (b) A qualified patient is presumed to be engaged in the medical use of cannabis if the
42 qualified patient or designated caregiver is in possession of a written certification and an amount
43 of cannabis that does not exceed the qualified patient's adequate supply. This presumption may
44 be rebutted only by evidence that the qualified patient engaged in conduct related to cannabis for
45 a purpose other than alleviating the qualified patient's medical condition or symptoms associated
46 with the medical condition.

47 (c) For the purposes of medical care, including organ transplants, a qualified patient's
48 authorized use of cannabis in accordance with this Article shall be treated in the same manner as
49 the authorized use of any other medication used at the direction of a physician and shall not
50 constitute the use of an illegal substance.

1 (d) A health care provider shall not be subject to arrest, prosecution, or penalty in any
2 manner, or denied any right or privilege, or subject to increased monitoring or disciplinary action
3 by the North Carolina Medical Board or any other business or occupational or professional
4 licensing board or bureau for either of the following:

5 (1) Advising a patient about the risks and benefits of the medical use of cannabis
6 or that the patient may benefit from the medical use of cannabis if, in the
7 physician's medical judgment, the potential benefits of the medical use of
8 cannabis would likely outweigh the health risks for that particular patient.

9 (2) Providing a patient with written certification, based upon the physician's
10 assessment of the patient's medical history and current medical condition, that
11 the potential benefits of the medical use of cannabis would likely outweigh
12 the health risks for that particular patient.

13 (e) A health care provider shall not be subject to arrest, prosecution, or penalty in any
14 manner, or denied any right or privilege, or subject to disciplinary action by a business or
15 occupational or professional licensing board or bureau for discussing with a patient the benefits
16 or health risks of the medical use of cannabis or the interaction of cannabis with other substances.

17 **"§ 90-730.2. Licensing of medical cannabis cultivation and manufacturing.**

18 (a) The Department of Agriculture and Consumer Services shall adopt rules for the
19 licensing of persons for the cultivation of medical cannabis and the manufacturing of medical
20 cannabis products. The rules adopted by the Department shall include, at a minimum, the
21 following:

22 (1) Application and annual renewal fees sufficient to completely cover all of the
23 Department's costs for oversight and management of the cultivation of
24 medical cannabis and the production of products containing medical cannabis,
25 as well as the grant program established by G.S. 90-730.4.

26 (2) Regulation of packaging and labeling of medical cannabis and medical
27 cannabis products.

28 (3) The requirement that medical cannabis products not include nicotine or
29 alcohol and not be in a form or flavor intended to attract unauthorized use for
30 nonmedical purposes or by children.

31 (4) Regulation of outdoor cultivation of medical cannabis to minimize diversion
32 or theft of medical cannabis for unauthorized uses.

33 (5) Sanitation and testing of medical cannabis processing and manufacturing of
34 medical cannabis products.

35 (6) Guidelines and restrictions on advertising of medical cannabis and medical
36 cannabis products.

37 (b) The Department shall complete all rule adoption and submit a report to the General
38 Assembly no later than January 31, 2023, regarding the licensing system required by this section.

39 **"§ 90-730.3. Licensing and regulation of medical cannabis dispensaries.**

40 (a) For purposes of this section, the terms "Commission" and "local board" are as defined
41 in G.S. 18B-101.

42 (b) By no later than January 1, 2023, the Commission shall adopt rules for the
43 establishment, licensing, and operation of medical cannabis dispensaries. The rules required
44 under this subsection shall include rules for the establishment and collection of fees for all
45 licenses required under this section, including fees associated with applications for such licenses.

46 (c) In addition to independent dispensaries licensed under subsection (b) of this section,
47 and upon the payment of any fees required under subsection (b) of this section, a local board may
48 establish and operate one medical cannabis dispensary for each ABC store operated by the local
49 board. A local board may enter into a joint venture with an eligible social equity recipient, as
50 defined in G.S. 90-730.4, for the establishment and operation of a medical cannabis dispensary.
51 Each medical cannabis dispensary established and operated under this subsection shall be located

1 no less than 1,000 feet away from an ABC store, an independent dispensary licensed under
2 subsection (b) of this section, an elementary or secondary school, or a religious institution.

3 **"§ 90-730.4. Social Equity Business Development Grant program.**

4 (a) For purposes of this section, the term "eligible social equity recipient" means an
5 applicant for a license under G.S. 90-730.2 for which at least sixty-six percent (66%) of
6 ownership interest in the applicant has any of the following characteristics:

7 (1) A prior conviction for simple possession of cannabis.

8 (2) A family member with a conviction for simple possession of cannabis. For
9 purposes of this subdivision, family member means a spouse, parent,
10 stepparent, sibling, step-sibling, child, or stepchild.

11 (3) Residence in an area that is economically distressed, as determined by the
12 Department in consultation with the Department of Commerce, or with a
13 disproportionate number of arrests for cannabis violations, as determined by
14 the Department in consultation with the Department of Public Safety.

15 (4) A degree from a public or private historically black college or university.

16 (b) The Department shall establish the Social Equity Business Development Grant
17 Program (Grant Program) to provide grants and low interest loans to an eligible social equity
18 recipient. Two hundred fifty thousand dollars (\$250,000) of the licensing fees collected by the
19 Department under G.S. 90-730.2 in each fiscal year shall be used by the Department to fund the
20 Grant Program. Eligible uses of the grant funds by shall include the following:

21 (1) Elimination or amelioration of barriers to licensing under this Article.

22 (2) Technical assistance.

23 (3) Outreach and promotion of medical cannabis cultivation.

24 (c) The Department shall annually report to the chairs of the Joint Legislative Oversight
25 Committee on Agriculture and Natural and Economic Resources and the Fiscal Research
26 program on the Grant Program. The report shall include grant recipients, amount distributed to
27 each recipient, and a description of activities funded by each grant."

28
29 **PART II. EXPUNCTION OF MISDEMEANOR AND FELONY MARIJUANA**
30 **OFFENSES**

31 **SECTION 2.1.(a)** Article 5 of Chapter 15A of the General Statutes is amended by
32 adding two new sections to read:

33 **"§ 15A-145.8B. Automatic expunction of misdemeanor marijuana offenses.**

34 (a) If a person was charged with (i) a misdemeanor violation of G.S. 90-95(a)(3) for
35 possession of marijuana or hashish or (ii) a violation of G.S. 90-113.22A, and the person was
36 convicted, the conviction shall be ordered to be automatically expunged no later than December
37 31, 2024, in the manner set forth in this section.

38 (b) The clerk of each superior court shall determine which cases meet the criteria for
39 expunction set forth in subsection (a) of this section. Upon completing the review required under
40 this subsection, the clerk of each superior court shall prepare an order of expungement for each
41 case that meets the criteria set forth in subsection (a) of this section and was finalized in his or
42 her court. Upon completion of the order of expungement, the court shall order the expunction.
43 Upon order of expungement, the clerk shall forward the petition to the Administrative Office of
44 the Courts.

45 (c) No person as to whom such an order has been entered under this section shall be held
46 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
47 giving a false statement or response to any inquiry made for any purpose, by reason of the
48 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
49 or trial.

50 (d) The court shall also order that the conviction ordered expunged under this section be
51 expunged from the records of the court and direct all law enforcement agencies bearing record

1 of the same to expunge their records of the conviction. The clerk shall notify State and local
2 agencies of the court's order as provided in G.S. 15A-150.

3 (e) Any other applicable State or local government agency shall expunge from its records
4 entries made as a result of the conviction ordered expunged under this section. The agency shall
5 also reverse any administrative actions taken against a person whose record is expunged under
6 this section as a result of the charges or convictions expunged. This subsection shall not apply to
7 the Department of Justice for DNA records and samples stored in the State DNA Database and
8 the State DNA Databank.

9 (f) Except as otherwise provided by law, it is unlawful for any person having or acquiring
10 access to a record expunged under this section to disclose to another person any expunged
11 information from it without an order from the court that ordered the record expunged. A person
12 who violates this subsection is guilty of a Class 1 misdemeanor.

13 (g) An employer or educational institution shall not, in any application, interview, or
14 otherwise, require an applicant for employment or admission to disclose any information
15 expunged under this section. An applicant need not, in answer to any question concerning any
16 arrest, criminal charge that has not resulted in a conviction, or conviction, include a reference to
17 any information expunged under this section.

18 **§ 15A-145.8C. Expunction of certain felony marijuana offenses.**

19 (a) If a person was charged with a felony violation of G.S. 90-95 as it relates to marijuana,
20 and that person was convicted, the person may file a petition in the court of the county where the
21 person was convicted for expunction of the offense from the person's criminal record and any
22 other official record containing an entry relating to the person's apprehension, charge, trial, or
23 conviction. The petition cannot be filed earlier than five years after (i) the date of conviction or
24 (ii) any active sentence, period of probation, or post-release supervision has been served,
25 whichever is later. The court, after notice to the district attorney, shall hold a hearing on the
26 petition and, upon finding that the requirements of this section have been met, and that the
27 continued existence and possible dissemination of information relating to the conviction causes
28 or may cause circumstances that constitute a manifest injustice to the petitioner, the court shall
29 order the expunction.

30 (b) Any petition for expungement under this section shall be on a form approved by the
31 Administrative Office of the Courts and be filed with the clerk of superior court. Upon order of
32 expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

33 (c) No person as to whom such an order has been entered under this section shall be held
34 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
35 giving a false statement or response to any inquiry made for any purpose, by reason of the
36 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
37 or trial.

38 (d) The court shall also order that the conviction ordered expunged under this section be
39 expunged from the records of the court and direct all law enforcement agencies bearing record
40 of the same to expunge their records of the conviction. The clerk shall notify State and local
41 agencies of the court's order as provided in G.S. 15A-150.

42 (e) Any other applicable State or local government agency shall expunge from its records
43 entries made as a result of the conviction ordered expunged under this section. The agency shall
44 also reverse any administrative actions taken against a person whose record is expunged under
45 this section as a result of the charges or convictions expunged. This subsection shall not apply to
46 the Department of Justice for DNA records and samples stored in the State DNA Database and
47 the State DNA Databank.

48 (f) A person who files a petition for expunction under this section must pay the clerk of
49 superior court a fee of one hundred dollars (\$100.00) at the time the petition is filed. Fees
50 collected under this subsection shall be deposited in the General Fund. This subsection does not
51 apply to petitions filed by an indigent.

1 (a) Offense. – No person shall possess or consume any medical cannabis in or upon the
2 grounds of any public elementary or secondary school during school hours or school or student
3 activities.

4 (b) Punishment. – Any person convicted of a violation of this section is guilty of a Class
5 A1 misdemeanor. Notwithstanding G.S. 15A-1340.23, a sentence of imprisonment of up to 180
6 days may be imposed for a violation of this section.

7 **"§ 14-332.3. Possession and consumption of medical cannabis by a person under 18 years**
8 **of age.**

9 (a) Offense. – No person under 18 years of age may possess or consume medical
10 cannabis.

11 (b) Punishment. – Any person convicted of a violation of this section is guilty of an
12 infraction and the court shall require the person to enter a substance abuse treatment program,
13 education program, or both, if available, that in the opinion of the court best suits the needs of
14 the person.

15 **"§ 14-332.4. Illegal importation, shipment, and transportation of medical cannabis;**
16 **penalty.**

17 (a) Offense. – Except as allowed by applicable law, no medical cannabis shall be
18 imported, shipped, transported, or brought into the State.

19 (b) Punishment. – Any person convicted of a violation of this section is guilty of a Class
20 A1 misdemeanor. Notwithstanding G.S. 15A-1340.23, a sentence of imprisonment of up to one
21 year may be imposed for a violation of this section."

22 **SECTION 4.1.(b)** This Part becomes effective December 1, 2021, and applies to
23 offenses committed on or after that date.
24

25 **PART V. TAXATION OF MEDICAL MARIJUANA AND ESTABLISHMENT OF** 26 **UNIVERSITY CANNABIS EQUITY INVESTMENT FUND**

27 **SECTION 5.1.** G.S. 105-113.106 reads as rewritten:

28 **"§ 105-113.106. Definitions.**

29 The following definitions apply in this Article:

30 (1) **Controlled Substance.** – Defined in G.S. 90-87.

31 (2) **Repealed by Session Laws 1995, c. 340, s. 1.**

32 (3) **Dealer.** – Any of the following:

33 a. A person who actually or constructively possesses more than 42.5
34 grams of marijuana, seven or more grams of any other controlled
35 substance that is sold by weight, or 10 or more dosage units of any
36 other controlled substance that is not sold by weight.

37 b. A person who in violation of Chapter 18B of the General Statutes
38 possesses illicit spirituous liquor for sale.

39 c. A person who in violation of Chapter 18B of the General Statutes
40 possesses mash.

41 d. A person who in violation of Chapter 18B of the General Statutes
42 possesses an illicit mixed beverage for sale.

43 ...

44 (6) **Marijuana.** – All parts of the plant of the genus ~~Cannabis~~, Cannabis not taxed
45 pursuant to Article 2E of this Chapter, whether growing or not; the seeds of
46 this plant; the resin extracted from any part of this plant; and every compound,
47 salt, derivative, mixture, or preparation of this plant, its seeds, or its resin.

48 ...

49 (9) **Unauthorized substance.** – A controlled substance, an illicit mixed beverage,
50 illicit spirituous liquor, or mash."

1 **SECTION 5.3.** Chapter 116 of the General Statutes is amended by adding a new
2 section to read:

3 **"§ 116-29.2. University Cannabis Equity Investment Fund.**

4 (a) Fund. – The University Cannabis Equity Investment Fund is established as a special
5 revenue fund in the Office of the President of The University of North Carolina. Allocations from
6 the fund shall be made in the discretion of the Cannabis Equity Reinvestment Fund Committee.
7 Forty percent (40%) of fund proceeds shall be used only for the purpose of research for medical
8 use of cannabis, as defined in G.S. 90-730, under UNC Hospitals. The remainder of fund
9 proceeds shall be used, in the discretion of the Cannabis Equity Reinvestment Fund Committee,
10 for the following uses:

11 (1) Low-interest loans to social equity applicants for licensure under
12 G.S. 90-730.3.

13 (2) Scholarship programs for historically marginalized populations, including
14 those who were in foster care or who have been impacted by substance use.

15 (3) Grants to support job training and placement, workforce development, youth
16 mentoring, and reentry services.

17 (4) Contributions to the State's legal services program for indigents.

18 (b) Appropriation. – Effective July 1 of each calendar year, the funds remitted to the
19 University Cancer Research Fund by the Secretary of Revenue from the tax on medical marijuana
20 are appropriated for the purposes set forth in this section.

21 (c) Cannabis Equity Reinvestment Fund Committee. – The Cannabis Equity
22 Reinvestment Fund Committee shall consist of the following seven members:

23 (1) Four members and the chair appointed by the Governor.

24 (2) One member appointed by the General Assembly upon the recommendation
25 of the Speaker of the House of Representatives pursuant to G.S. 120-121.

26 (3) One member appointed by the General Assembly upon the recommendation
27 of the President Pro Tempore of the Senate pursuant to G.S. 120-121.

28 (d) Quorum. – A majority of the members shall constitute a quorum for the transaction
29 of business.

30 (e) Meetings. – The Committee shall meet at least once in each quarter and may hold
31 special meetings at any time and place at the call of the chair or upon the written request of at
32 least a majority of its members.

33 (f) Report. – By November 1 of each year, the Committee shall provide to the Joint
34 Legislative Education Oversight Committee and to the Office of State Budget and Management
35 an annual financial report which shall include (i) an accounting of expenditures of State funds,
36 broken down between permissible purposes, (ii) an overview of programs set up using State funds
37 and an executive summary of the costs and benefits of the programs for the year, and (iii) an
38 accounting of any fund balances retained by the Fund, along with information about any
39 restrictions on the use of these funds."

40 **SECTION 5.4.** Sections 5.1 and 5.2 of this act become effective January 1, 2022,
41 and apply to sales made on or after that date. The remainder of this Part becomes effective
42 January 1, 2022.

43
44 **PART VI. APPROPRIATIONS**

45 **SECTION 6.1.(a)** Effective July 1, 2021, there is appropriated from the General
46 Fund to the Department of Agriculture and Consumer Services the following sums:

47 (1) The sum of five hundred thousand dollars (\$500,000) in nonrecurring funds
48 for the 2021-2022 fiscal year to be used for planning and rule development
49 for the licensing and social equity programs authorized by G.S. 90-730.2, as
50 enacted by Section 1.1 of this act.

1 (2) The sum of five hundred thousand dollars (\$500,000) in nonrecurring funds
2 for the 2021-2022 fiscal year to be used to establish and operate the Social
3 Equity Business Development Grant Program authorized by G.S. 90-730.2, as
4 enacted by Section 1.1 of this act.

5 **SECTION 6.1.(b)** This Part becomes effective July 1, 2021.

6
7 **PART VII. EFFECTIVE DATE**

8 **SECTION 7.1.** Except as otherwise provided, this act becomes effective December
9 1, 2021.