

## Mississippi Medical Cannabis Act Summary

### *Passage.*

On February 2, 2022, Governor Tate Reeves signed Senate Bill 2095, the Mississippi Medical Cannabis Act. The 445-page bill, passed by the Mississippi Senate and House sets up a comprehensive regulatory scheme to allow cannabis to be used to treat “debilitating medical conditions.”

### *Regulation.*

The Mississippi Medical Cannabis Act, effective immediately, governs all facets of the cultivation, disposal, processing, research, testing, transportation, and use of cannabis in Mississippi. The legislation designates the Mississippi Department of Health (MDOH) as the lead agency, to have “ultimate authority for oversight of the administration” of the program and is charged to coordinate its activities with the Mississippi Department of Revenue (MDR). A copy of this comprehensive and detailed bill can be accessed here [SB 2095](#). The following are just a few of the more important highlights from this lengthy and detailed legislation:

- **Debilitating medical condition** is defined to include (1) cancer, Parkinson’s disease, Huntington’s disease, muscular dystrophy, glaucoma, spastic quadriplegia, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis, amyotrophic lateral sclerosis (ALS), Crohn’s disease, ulcerative colitis, sickle-cell anemia, Alzheimer’s disease, agitation of dementia, post-traumatic stress disorder (PTSD), autism, pain refractory to appropriate opioid management, diabetic/peripheral neuropathy, spinal cord disease or severe injury, or the treatment of these conditions; (2) a “chronic, terminal, or debilitating disease or medical condition, or its treatment, that produces one or more...wasting syndrome, chronic pain, severe nausea, seizures, persistent muscle spasms, including multiple sclerosis; or (3) any other “serious medical condition or treatment” added by MDOH. Citizens are authorized to petition MDOH to add qualifying medical conditions.
- **Authorization to use cannabis** requires: (1) diagnosis by a practitioner (physician, nurse practitioner, physician assistant or optometrist) that a patient with whom the practitioner has a “bona-fide practitioner-patient relationship” has a debilitating medical condition; (2) written certification (on a form provided by MDOH) by the practitioner; and (3) issuance of a registry identification card by MDOH. Dispensaries will be required to verify that a patient has not exceeded maximum cannabis amounts allowed from all dispensaries during a specified period of time – and, must report all dispensing information to the Miss. Prescription Monitoring Program.
- **After 120 days** MDOH can begin accepting applications for patient identification cards, registration of practitioners who desire to participate, as well as licensing of cultivation facilities, processing facilities, testing facilities, research facilities, disposal companies, and transportation companies. **After 150 days** MDOH “shall issue licenses for medical cannabis dispensaries” (can take up to 30 days to process).
- **Annual licensing fees vary** by type of facility and size.

- **Micro-cultivators** – (growers with cannabis canopies under 2,000 sf) annual licensing fees range from \$2,000 to \$3,500
- **Cultivators** - annual licensing fees for cultivators range from \$15,000 for Tier 1 cultivators (with a cannabis grow canopy of up to 2,000 sf) to \$150,000 for Tier 6 cultivators (10,000 sf or more)
- **Micro-processors** (processing less than 3,000 lbs. of biomass) - from \$3,500 to \$5,000
- **Processors** (over 3,000 lbs.) - \$20,000;
- **Dispensaries** - \$25,000
- **Transportation companies** - \$7,500
- **Disposal companies** - \$7,500
- **Testing facilities** - \$15,000
- **Research facilities** - \$15,000

A one-time application fee will also be imposed on each category, also varying by size and type of facility.

- **No limitation on the number of dispensary or facility licenses to be issued.** However, no individual or entity may have a direct or an indirect ownership or economic interest of **greater than 10%** in:
  - More than **one** cultivation facility license;
  - More than **one** processing facility license; or
  - More than **five** dispensary licenses.
- **Residency requirements** for processing and cultivation licenses are as follows:
  - A person applying for a license must have been a Mississippi resident for at least **three consecutive years** prior to the application date.
  - For business entities, **at least 35% of the entity's equity ownership interests** must be held by individuals who have been Mississippi residents for at least three consecutive years preceding the application date.
  - Micro-cultivators and micro-processors - same requirements for individual owners, but businesses in this category must be **100% held by individuals** who have been Mississippi residents for at least three years.
  - **All residency requirements stand repealed on 12/31/22.**
- **Local regulations and zoning** – local governments may enact reasonable time, place, and manner restrictions on cannabis establishments, but they cannot enact ordinances contrary to state regulation or adopt regulations that make dispensary operations “**impracticable.**”
  - **1,500 ft radius** must separate all dispensaries;
  - Commercial-use zones can be used for dispensaries, research, and testing facilities; and
  - Agricultural or industrial zones can support cultivation and processing facilities. Such facilities can also be located in areas zoned for commercial use subject to the local government granting a variance to an existing ordinance or amending an ordinance to allow such use.
  - Advertising and Signage – MDOH has been designated the authority to regulate advertising, signage, and displays. Local ordinances must comply with these regulations.

- **Local government option** – medical cannabis is legal in all counties and municipalities in the state. However, cities and counties **may opt out of the Act** if the governing authority votes to do so within 90-days after the effective date of the new law (February 2, 2022). If a county opts out of the Act, then a city within that county is not also opted out. Further,
  - a government authority may vote to opt back in at any time; or
  - the majority of the citizens vote to do so after the presentation of a **petition signed by 20% or 1,500 of the qualified electors** (whichever is less) requiring the governing authority to conduct an election to determine whether its decision to opt-out should be overridden (and for the Act to apply). Elections can be held every two years subject to the submission of a petition.
- **1,000 feet** – no cannabis establishment (dispensaries, facilities, etc.) may be within 1,000 feet of a school, childcare facility, or church. However, this prohibition can be waived by the school, church, or facility – up to 500 feet.
- **Taxation** – 5% excise tax on cultivation facilities and 7% sales tax on dispensaries.
- **Limitations on purchase** – A registered cardholder is limited to:
  - No more than **6 MMCEUs of cannabis per week**, or more than **24 MMCEUs of cannabis in 30 days**. This equates to: **21 grams** of flower per week and **84 grams** (3 oz) of flower per month; or 6 grams of concentrate per week and 24 grams of concentrate per month; or 600 mg of THC in an infused product per week or 2,400 mg of THC in infused products per month.

Butler Snow will continue to review and analyze this legislation and provide additional information in the days ahead.