

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, the Legalization of Marijuana for Medical Treatment Initiative of 1999 to set a new expiration date for the issuance of two year qualifying patient and caregiver registration cards, to establish a sunset date for qualifying patients and caregivers whose registration cards expired on or after March 1, 2020 to continue to purchase medical marijuana, to ease registration burdens for patients entering and remaining in the medical marijuana program by allowing individuals 21 years and older to self-certify that they are utilizing marijuana for medical purposes until September 30, 2022, to clarify that a criminal background check is not required for a caregiver to register with ABRA, to provide the Board with the authority to establish alternative or additional processes and procedures for patients to register in the medical marijuana program or obtain temporary or permanent approval to purchase medical marijuana from a dispensary within one business day, to increase the amount of dried cannabis a qualifying patient may possess at any one time from 4 ounces to 8 ounces, to establish civil violations under Title 7 that may result in the closure of an unregistered establishment, to provide the Mayor with the authority to close an unregistered establishment for an initial 96 hour period for civil violations of Title 7 of the DC Official Code, to establish processes and procedures for a notice of summary closure issued by the Board, to establish a process for holding landlords or property owners responsible for allowing or permitting unregistered establishments to operate on its premises, to provide the Board with the authority to issue cease and desist orders to unregistered establishments, to amend Title 22-C of the District of Columbia Municipal Regulations to allow qualifying patients to establish residency in the District with one document, including a telephone bill or bank statement containing a District address, to declare a 4/20 medical cannabis sales tax holiday week to retain and bring patients back to the medical cannabis program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Patient Access Supplemental Extension and Civil Enforcement Temporary Amendment Act of 2022”.

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective

February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 et seq.), is amended as follows:

(a) Section 3 (D.C. Official Code § 7-1671.02) is amended as follows:

(1) Section (c)(1)(A) is amended to read as follows:

“(1)(A) Obtained a signed, written recommendation from an authorized practitioner within the last two years in accordance with § 7-1671.04, except for individuals twenty-one years of age and older who shall be permitted to self-certify on a form provided by ABRA that they are utilizing cannabis for medical purposes as part of the registration process until September 30, 2022.”.

(2) A new subsection (c)(1)(C) is added to read as follows:

“(1)(C) As part of the registration process, a caregiver shall not be required to submit a criminal background check to ABRA.”.

(3) A new subsection (c-1) is added to read as follows:

“(c-1) Where a qualifying patient’s or caregiver’s registration identification card expired or will expire at any time between March 1, 2020 to September 30, 2022, and the qualifying patient or caregiver has not submitted an application for a new registration identification card, the qualifying patient or caregiver may continue to purchase, possess and administer medical marijuana in accordance with this chapter and the rules issued pursuant to § 7-1671.13 until September 30, 2022. On or after October 1, 2022, the qualifying patient or caregiver must possess a valid registration identification card to continue to purchase, possess and administer medical marijuana.”.

(4) A new subsection (c-2) is added to read as follows:

“(c-2) Notwithstanding the requirements of subsection (c) of this section, the Board may,

by rule, establish alternative or additional processes and procedures for patients to:

“(1) Register in the medical marijuana program; or

“(2) Obtain temporary or permanent approval to purchase medical marijuana from a dispensary within one business day.”.

(b) Section 4(a) (D.C. Official Code § 7-1671.03(a)) is amended by striking the phrase

“is 2 ounces of dried medical marijuana; provided, that the Mayor, through rulemaking, may increase the quantity of dried medical marijuana that may be possessed up to 4 ounces; and” and inserting the phrase “is 8 ounces of dried medical marijuana. The Mayor” in its place.

(c) Section 6(3) (D.C. Official Code § 7-1671.05(3)) is amended to read as follows:

“(3) Issue nontransferable registration identification cards that expire annually to registered persons and entities, which may be presented to and used by law enforcement to confirm whether a person or entity is authorized to administer, cultivate, dispense, distribute, test, or possess medical marijuana, or manufacture, possess, or distribute paraphernalia; provided that, qualifying patients and caregivers who register after the effective date of the act prior to September 30, 2022 shall be issued nontransferable registration identification cards that expire biennially.”.

(d) Section 8(b) (D.C. Official Code § 7-1671.07(b)) is repealed.

(e) New sections 15 through 20 are added to read as follows:

“Sec. 15. Violations of this act that may result in closure.

“(a) It shall be a violation of this section for an unregistered establishment to sell or deliver marijuana or marijuana products in the District as part of a sale to another person without having first obtained an appropriate registration as required by this act.

“(b) It shall be a violation of this section for an unregistered establishment to bring

marijuana or marijuana products from outside of the District to inside of the District.

“(c) It shall be a violation of this section for an unregistered establishment to store on its premises:

“(1) Marijuana weighing more than 2 ounces;

“(2) Marijuana products consisting of more than 1 gram of marijuana concentrate or tincture;

“(3) Marijuana-infused edibles weighing 16 ounces or more; or

“(4) 72 or more ounces of a marijuana product in liquid form.

“(d) It shall be a violation of this section for an unregistered establishment to have on its premises marijuana or marijuana products that it purchased from another person or entity other than a registered cultivation center.

“(e) It shall be a violation of this section for an unregistered establishment to grow, process or package marijuana or marijuana products at its premises.

“(f) It shall be a violation of this section for an unregistered establishment to have a firearm, as prohibited by D.C. Official Code § 22-4504, present or displayed at or near its premises where marijuana in quantities of greater than two (2) ounces are present.

“(g) It shall be a violation of this section for an unregistered establishment that purely gratuitously provides marijuana or marijuana products to patrons to not be registered with the Office of Tax and Revenue pursuant to D.C. Official Code § 47-1805.02(8).

“(h) No person operating an unregistered establishment where retail goods or services are sold or available for purchase shall offer a patron marijuana or marijuana products as part of that retail or service transaction.

“(i) For purposes of this section, the term “marijuana product” shall mean a product

derived from or composed of marijuana, in part or in whole.

“(j)(1) For purposes of this section, the term “sell” shall mean offering for sale, keeping for sale, manufacturing for sale, soliciting orders for sale, trafficking in, importing, exporting, bartering, delivering for value or in any way other than by purely gratuitously transferring.

“(2) Every delivery of marijuana or marijuana products made otherwise than purely gratuitously by an unregistered establishment shall constitute a sale of marijuana.

“(3) The term “sell” shall also include instances where (1) marijuana or marijuana products are given away contemporaneously with another reciprocal transaction, (2) marijuana or marijuana products are offered or advertised in conjunction with an offer for the sale of goods or services, or (3) a gift of marijuana or marijuana products is contingent upon a separate reciprocal transaction for goods or services.

“(k) For purposes of this section, the term “unregistered establishment” shall mean a sole proprietorship, partnership, or other business entity that:

“(1) Operates at a specific location, or as a delivery company; and

“(2) Is not registered with ABRA as a medical marijuana cultivation center, dispensary, or testing laboratory.

“Sec. 16. Closure of an unregistered establishment by Mayor.

“(a) The Mayor may close and seal an unregistered establishment for an initial period of 96 hours without a hearing due to public health and safety concerns based upon the unregistered establishment operating an unregistered medical marijuana business as prohibited by section 15. The Board may extend the length of the closure for more than 96 hours under the procedures set forth in section 17.

“(b) The Mayor shall post notice of closure placards at the unregistered establishment for

135 96 hours.

136 “(c) The Mayor shall send written notice of the closure of the unregistered establishment
137 to the ABRA Director within 24 hours of the closure being issued.

138 “(d) The order of the Mayor to close an unregistered establishment under subsection (a)
139 of this section shall terminate upon a decision by the Board to lift the closure pursuant to section
140 17.

141 “Sec. 17. Summary Closure by the Board.

142 “(a) If the Board determines, after investigation, that public health and safety
143 concerns exist as a result of an unregistered establishment being in violation of section 15, the
144 Board may summarily continue the closure, without a hearing, past the initial 96 hour closure
145 period.

146 “(b) A summary notice of closure shall:

147 “(1) Identify the specific action being taken;

148 “(2) Identify the factual and legal basis for the summary closure;

149 “(3) Describe the unregistered establishment’s right to request a hearing; and

150 “(4) State that it is unlawful for any person, with the exception of emergency
151 services personnel and law enforcement, to enter the sealed premises for any purpose without the
152 written permission of the Board.

153 “(c) An unregistered establishment may request a hearing within 3 business days after
154 service of a notice of summary closure. The Board shall hold a hearing within 2 business days of
155 receipt of a timely request and shall issue a decision within 3 business days after the hearing.

156 “(d) After a hearing or in the event that no hearing is timely requested, the Board may
157 continue or lift the closure. The Board may impose conditions in deciding to lift the closure,

which shall include at a minimum the unregistered establishment's compliance with the requirements of this title. The Mayor shall be authorized to re-close an unregistered establishment that is not in compliance with the written conditions imposed by the Board for another 96-hour period.

“(e) The Board may also impose a fine in the amount of up to \$30,000 as a condition of lifting the closure. Any fine imposed by the Board shall be paid by the unregistered establishment prior to the closure being lifted. Any paid fine imposed by the Board under this subsection shall be deposited into the Cannabis Civil Enforcement Fund set forth in section 18.

“(f) As part of its decision, the Board may also prohibit the approval or issuance of a license or registration under either this act or Title 25 of the D.C. Official Code at the unregistered establishment's location for a period of five years.

“(g) A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter 1 of Chapter 5 of Title 2.

“Sec. 18. Penalties for landlords or property owners of unlicensed establishments.

“(a) A landlord or property owner shall not permit or allow on its premises an unregistered establishment to engage in any activities that are prohibited by section 15.

“(b) For the first violation of section 15 that results in a 96-hour closure, the Board shall send a notice to the landlord or property owner where the illegal activity occurred stating:

“(1) The nature of the illegal activity documented on the premises;

“(2) The specific action or actions being taken against the unregistered establishment operating on the premises; and

“(3) Issue a fine in the amount of \$30,000 to the landlord or property owner.

“(c) Unless the landlord or property owner timely requests a hearing, the landlord or

property owner shall pay the assessed fine within 30 calendar days. The Board may grant the landlord or property owner up to 30 additional days to pay the fine. If the landlord or property owner fails to timely pay the fine, the Mayor shall close and seal the premises where the prohibited activity occurred until the fine is paid.

“(d) The Board may issue a written warning to a landlord or property owner for a first violation under this subsection unless, after an investigation or a hearing, the evidence suggests that the landlord or property owner knew or should have known that an unregistered establishment was operating on the premises.

“(e) For any subsequent violation of section 15 that results in another 96-hour closure:

“(1) The Board shall issue a fine in the amount of \$60,000 to the landlord or property owner; and

“(2)(A) The Board shall require the landlord or property owner to submit a remediation plan within 14 days of the notice of a fine under paragraph (1) that contains the landlord or property owner’s plan to prevent any future violations of section 15.

“(B) If the landlord or property owner who has not timely requested a hearing pursuant to subsection (f) fails to timely pay the fine or submit a remediation plan in accordance with subparagraph (A), or the Board rejects the landlord or property owner’s remediation plan as deficient, the Mayor shall close and seal the premises until the fine is paid and the landlord or property owner’s remediation plan is approved by the Board.

“(f) A landlord or property owner shall have the right to request a hearing with the Board within 15 business days of service of notice of any actions taken under either subsections (b) or (e) of this section.

“(g) Fines received by the Board pursuant to this section shall be deposited into a

204 Cannabis Civil Enforcement Fund.

205 “(1) The first \$100,000 collected annually shall be deposited into the Litigation
206 Support Fund established by section 106b of the Attorney General for the District of Columbia
207 Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-
208 160; D.C. Code § 1-301.86b) to assist with civil cannabis enforcement.

209 “(2) Any monies in the fund above \$100,000 annually shall go to the Department
210 of Small and Local Business Development for the purpose of awarding grants or providing
211 technical assistance to medical marijuana applicants or existing registered medical marijuana
212 businesses who qualify as equity impact enterprises under the Small and Certified Business
213 Enterprise Development and Assistance Act, effective October 20, 2005 (D.C. Law 16-33; D.C.
214 Official Code § 2-218.01 et seq.).

215 “Sec 19. Notice of Board closure

216 “(a) In the event the Board orders the continuance of a closure, the Board shall post 2
217 notices in conspicuous places at or near the main street entrance of the outside of the
218 unregistered establishment.

219 “(b) Each posted notice shall state that the unregistered establishment has been closed
220 and that the continued closure is ordered because of a violation of section 15.

221 “Sec. 20. Cease and desist orders.

222 “(a) If the Board or the Mayor, after investigation but before a hearing, has cause to
223 believe that a person is violating any provision of this title and the violation has caused, or may
224 cause, immediate and irreparable harm to the public, the Board or the Mayor may issue an order
225 requiring the alleged violator to cease and desist immediately from the violation. The order shall
226 be served by certified mail or delivery in person.

227 “(b)(1) The alleged violator may, within 15 days after the service of the order, submit a
228 written request to the Board to hold a hearing on the alleged violation.

229 “(2) Upon receipt of a timely request, the Board shall conduct a hearing in
230 accordance with the procedures set forth in the District of Columbia Administrative Procedure
231 Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-501 et seq.) and issue a
232 decision within 90 days after the hearing.

233 “(c)(1) The alleged violator may, within 10 days after the service of an order, submit a
234 written request to the Board for an expedited hearing on the alleged violation.

235 “(2) Upon receipt of a timely request for an expedited hearing, the Board shall
236 conduct a hearing within 10 days after the date of receiving the request and shall deliver to the
237 alleged violator at their last known address a written notice of the hearing by any means
238 guaranteed to be received at least 5 days before the hearing date.

239 “(3) The Board shall issue a decision within 30 days after an expedited hearing.

240 “(d) If a request for a hearing is not timely made under subsections (b) and (c) of this
241 section, the order of the Board or the Mayor shall be final.

242 “(e) If, after a hearing, the Board determines that the alleged violator is not in violation of
243 this act, the Board shall revoke the order.

244 “(f) If a person fails to comply with a lawful order of the Board or the Mayor under this
245 section, the Board may petition the Superior Court of the District of Columbia for an order
246 compelling compliance or take any other action authorized by this subchapter.”.

247 “Sec. 21. Enforcement activities start date.

248 “Unless otherwise deemed necessary to protect residents and visitors from immediate
249 harm, the Mayor and the Board shall not commence enforcement activities authorized in Section

250 15 through 20 until May 16, 2022.”.

251 Sec. 3. Section 501.2(b) of Title 22-C of the District of Columbia Municipal Regulations
252 (22-C DCMR § 501.2(b)), is amended as follows:

253 (a) The lead-in language is amended by striking the phrase “two (2)” and inserting the
254 phrase “one (1)” in its place.

255 (b) Subparagraph (9) is amended to read as follows:

256 “(9) Utility bills from a period within the two (2) months immediately preceding
257 the application date in the name of the applicant on a District of Columbia residential address;”.

258 (c) Subparagraph (10) is redesignated as subparagraph (11).

259 (d) A new subparagraph (10) is added to read as follows:

260 “(10) A bank statement addressed to the applicant from a period within the two
261 (2) months immediately preceding the application date in the name of the applicant on a District
262 of Columbia residential address; or”.

263 Sec. 4. D.C. Official Code § 47-2002(a)(7)(A) shall be amended by deleting the period at
264 the end and adding the phrase “except for sales or charges occurring during “4/20 Medical
265 Cannabis Sales Tax Holiday Week”, which shall be the period of Friday, April 15, 2022 through
266 Sunday, April 24, 2022.”.

267 Sec. 5. Repealers.

268 The Medical Marijuana Patient Access Extension Emergency Amendment Act of 2022,
269 effective February 11, 2022 (69 DCR 1268; D.C. Act 24-323) and the Medical Marijuana Patient
270 Access Extension Temporary Amendment Act of 2022, passed on 2nd reading on March 1, 2022
271 (engrossed version of Bill 24-630), are repealed.

272 Sec. 6. Fiscal impact statement.

273 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
274 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
275 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

276 Sec. 7. Effective date.

277 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
278 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review
279 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
280 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
281 Columbia Register.

282 (b) This act shall expire after 225 days of its having taken effect.