



SPONSOR: Rep. Brady

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 473

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE MEDICAL MARIJUANA ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 4901A, Title 16 of the Delaware Code by making deletions as shown by strike through and  
2     insertions as shown by underline and redesignating accordingly as follows:

3           § 4901A Findings.

4           (h) The jobs created in this industry should be good, safe, family-sustaining jobs that promote the general health,  
5     welfare, and prosperity of its residents and are accessible to qualified residents.

6           Section 2. Amend § 4902A, Title 16 of the Delaware Code by making deletions as shown by strike through and  
7     insertions as shown by underline and redesignating accordingly as follows:

8           § 4902A Definitions.

9           ( )“Bona Fide Labor Organization” means a labor union that represents or is actively seeking to represent  
10     Cannabis workers in Delaware.

11           ( )“Labor peace agreement” means an agreement between an applicant for a marijuana license and a labor  
12     organization that, at a minimum, protects the State’s proprietary interests by prohibiting the labor organization from  
13     engaging in picketing or boycotts of the marijuana establishment.

14           Section 3. Amend § 4914A, Title 16 of the Delaware Code by making deletions as shown by strike through and  
15     insertions as shown by underline and redesignating accordingly as follows:

16           § 4914A Registration of compassion centers.

17           (a) Compassion centers may only operate if they have been issued a valid registration certificate from the  
18     Department. When applying for a compassion center registration certificate, the applicant shall submit the following in  
19     accordance with Department regulations:

20           (1) An application fee in an amount determined by the Department's regulations.

21           (2) The proposed legal name of the compassion center.

(3) The proposed physical address of the compassion center and the proposed physical address of any additional locations, if any, where marijuana will be cultivated, harvested, packaged, labeled, or otherwise prepared for distribution by the compassion center.

(4) The name, address, and date of birth of each principal officer and board member of the compassion center, provided that all such individuals shall be at least 21 years of age.

(5) Any instances in which a business or not-for-profit that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding.

(6) Proposed operating bylaws that include procedures for the oversight of the compassion center and procedures to ensure accurate record keeping and security measures that are in accordance with the regulations issued by the Department pursuant to this chapter. The by-laws shall include a description of the enclosed, locked facility where medical marijuana will be grown, cultivated, harvested, packaged, labeled, or otherwise prepared for distribution by the compassion center.

(7) Any information required by the Department to evaluate the applicant pursuant to the competitive bidding process described in subsection (b) of this section.

(8) For businesses owned or operated by the applicant, or any principals, or managerial employees, the record of previous violations, investigations, citations, administrative proceedings, or lawsuits related to any laws or regulations relating to employment, workplace safety, wages and compensation, discrimination, any other worker protections, tax, or any other relevant laws and regulation.

(b) The Department shall evaluate applications for compassion center registration certificates and compassion center registration certificate renewals using an impartial and numerically scored competitive bidding process developed by the Department in accordance with this chapter. The registration considerations shall consist of the following criteria:

(1) Documentation of not-for-profit status, consistent with § 4919A(a) of this title.

(2) The suitability of the proposed location or locations, including but not limited to compliance with any local zoning laws and the geographic convenience to patients from throughout the State of Delaware to compassion centers if the applicant were approved.

(3) The principal officer and board members' character and relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or marijuana cultivation and preparation and their experience running businesses or not-for-profits.

(4) The proposed compassion center's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical marijuana to the registered patients in the State-, including a labor peace agreement with a bona fide labor organization assuring an uninterrupted supply of medicine. The maintenance of such a labor peace agreement shall be an ongoing material condition of certification.

(5) The sufficiency of the applicant's plans for record keeping.

(6) The sufficiency of the applicant's plans for safety, security, safety equipment, employee training on best practices, ventilation, ergonomics procedures, employee engagement, and, where relevant, combustion safety and disaster plans for mold, pesticide and chemical exposure, and the prevention of diversion, including proposed locations and security devices employed.

(7) The applicant's plan for making medical marijuana available on an affordable basis to registered qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance.

(8) The applicant's plan for safe and accurate packaging and labeling of medical marijuana, including the applicant's plan for ensuring that all medical marijuana is free of pesticides and contaminants.

( ) The applicant's proposed employment standards, including paying workers living wages at least 300% of the federal poverty level for a family of 2, providing total compensation that permits all workers to support their families, secure quality health care coverage, and save for their retirement, paid sick and family leave, comprehensive nondiscrimination language, offering training and educational opportunities for employee development, and any plans to recruit from a diverse workforce from the local community.

( ) Copies of any handbooks, benefits plans, labor peace and/or collective bargaining agreements covering its employees.

( ) For any cannabis facilities in other jurisdictions owned or operated by the applicant, any principals, or managerial employees, evidence that they have never been cited, sanctioned, investigated, suspended or had their cannabis license, permit, registration or authorization revoked for any reason.

Section 4. Amend § 4916A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 4916A Compassion center and safety compliance facilities renewal.

Registration certificates may be renewed every 2 years. The registered compassion center or registered safety compliance facility may submit a renewal application beginning 90 days prior to the expiration of its registration certificate.

The Department shall grant a renewal application within 30 days of its submission only if the following conditions are all satisfied:

(1) The registered compassion center or registered safety compliance facility submits a renewal application and the required renewal fee, which shall be refunded within 30 days if the renewal application is rejected;

(2) The Department has not suspended the registered compassion center or registered safety compliance facility's registration certificate for violations of this chapter or regulations adopted pursuant to this chapter; and

(3) The inspections authorized by § 4919A(u) of this title and the annual report, provided pursuant to § 4922A of this title, do not raise serious concerns about the continued operation of the registered compassion center or registered safety compliance facility applying for renewal.

(4) The applicant still complies with the qualifications required in §§ 4914A and 4915A of this title.

( ) The renewal applicant is abiding by all its stated plans and obligations submitted in the initial application, any renewal application, or other submission to the Department and the renewal applicant submits relevant evidence supporting their claim.

( ) For businesses owned or operated by the registered compassion center's owner, principals, or managerial employees, the updated record of those businesses' previous violations, investigations, citations, administrative proceedings, lawsuits, or any other proceeding related to any laws or regulations relating to cannabis, employment, worker protections, tax, or any other relevant laws and regulation do not raise serious concerns about the ability of the renewal applicant to operate or comply with relevant laws.

( ) Continues to abide by all requirements established within § 4914 and provides updated information.

Section 5. Amend § 4918A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 4918A Compassion center and safety compliance facility agents.

(a)(1) Every person seeking to become a principal officer, board member, agent, volunteer, or employee of a registered compassion center or a registered safety compliance facility shall obtain a background check in compliance with § 4927A of this title before beginning work, with or without compensation, at a registered compassion center or a registered safety compliance facility. Once a person becomes a principal officer, board member, agent, ~~volunteer~~, or employee of a registered compassion center or a registered safety compliance facility, the person must obtain a background check in compliance with § 4927A of this title every 5 years.

Section 6. Amend § 4919A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 4919A Requirements, prohibitions, penalties.

(a) A registered compassion center shall be operated on a not-for-profit basis. The bylaws of a registered compassion center shall contain such provisions relative to the disposition of revenues to establish and maintain its not-for-profit character. A registered compassion center need not be recognized as tax-exempt by the Internal Revenue Service and is not required to incorporate pursuant to Title 8.

(b) The operating documents of a registered compassion center shall include procedures for the oversight of the registered compassion center and procedures to ensure accurate recordkeeping.

( ) A registered compassion center and a registered safety compliance center must abide by all its stated plans and obligations submitted in its initial application, any renewal application, or other submission to the Department.

( ) A registered compassion center and a registered safety compliance center must promptly inform the Department of any legal proceedings, judgments, or government investigations against the registered compassion center or registered safety compliance center, or its owners, principals or managerial employees.

( ) A registered compassion center and a registered safety compliance center shall provide, at a minimum, sufficient compensation to support the worker's family, health and welfare, and cost of living.

(e\_) A registered compassion center and a registered safety compliance facility shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(d\_) A registered compassion center and a registered safety compliance facility may not be located within 500 feet of the property line of a preexisting public or private school.

(e\_) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' designated caregivers.

(f\_) All cultivation of marijuana for registered compassion centers must take place in an enclosed, locked location at the physical address or addresses provided to the Department during the registration process, which can only be accessed by compassion center agents working or volunteering for the registered compassion center.

(g\_) A registered compassion center may not purchase usable marijuana or mature marijuana plants from any person other than another registered compassion center.

(h\_) Before marijuana may be dispensed to a designated caregiver or a registered qualifying patient, a compassion center agent must determine that the individual is a current cardholder in the verification system and must verify each of the following:

(1) That the registry identification card presented to the registered compassion center is valid;

(2) That the person presenting the card is the person identified on the registry identification card presented to the compassion center agent; and

(3) That the registered compassion center is the designated compassion center for the registered qualifying patient who is obtaining the marijuana directly or via his or her designated caregiver.

(i\_) A registered compassion center shall not dispense more than 3 ounces of marijuana to a registered qualifying patient, directly or via a designated caregiver, in any 14-day period. Registered compassion centers shall ensure compliance with this limitation by maintaining internal, confidential records that include records specifying how much marijuana is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the designated caregiver. Each entry must include the date and time the marijuana was dispensed. These records must be maintained by the compassion centers for a minimum of 3 years.

~~(j\_) [Repealed.]~~

(k\_) No person may advertise medical marijuana sales in print, broadcast, or by paid in-person solicitation of customers. This shall not prevent appropriate signs on the property of the registered compassion center, listings in business directories including phone books, listings in trade or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events.

(l\_) A registered compassion center shall not share office space with nor refer patients to a physician.

(m\_) A physician shall not refer patients to a registered compassion center or registered designated caregiver, advertise in a registered compassion center, or, if the physician issues written certifications, hold any financial interest in a registered compassion center.

(n\_) No person who has been convicted of an excluded felony offense or has been convicted of a misdemeanor drug offense, as provided in this title or an equivalent offense from another jurisdiction, within 5 years from the date of application that is not excluded by § 4902A(7)b.2. of this title may be a compassion center agent.

(o\_) The Department shall issue a civil fine of up to \$3,000 for violations of this section.

(p\_) The Department shall suspend or revoke a registration certificate for serious or multiple violations of this chapter and regulations issued in accordance with this chapter. A registered compassion center may continue to cultivate and possess marijuana plants during a suspension, but it may not dispense, transfer, or sell marijuana.

(q\_) The suspension or revocation of a certificate is a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

(f\_) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter shall have his or her registry identification card revoked and shall be subject to other penalties for the unauthorized sale of marijuana.

(s\_) Any registered qualifying patient, registered designated caregiver, compassion center agent, or safety compliance facility agent, including a principal owner, board member, employee or volunteer who has access to compassion center or safety compliance facility records, who sells marijuana to someone who is not allowed to use marijuana for medical purposes or who fails to maintain, fraudulently maintains, or fraudulently represents to the Department records required by this chapter or rules promulgated pursuant to this chapter, for the purposes of selling marijuana to someone who is not allowed to use marijuana for medical purposes under this chapter is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000, or both, in addition to any other penalties for the distribution of marijuana.

(t\_) The Department shall revoke the registry identification card of any cardholder who knowingly commits multiple or serious violations of this chapter.

(u\_) Registered compassion centers are subject to random and reasonable inspection by the Department, including both premises and books, records, accounts, documents and papers, whether on or off-premises. The Department shall give reasonable notice of an inspection under this paragraph.

(v\_) Fraudulent representation to a law-enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be a class B misdemeanor which may be punishable by up to 6 months incarceration at Level V under § 4204 of Title 11 and a fine of up to \$1,150, as the Court deems appropriate which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter and jurisdiction for prosecution shall be exclusively in Superior Court.

(w\_) Registration cards issued pursuant to § 4909A of this title shall be in the possession of the registrant while in possession of medical marijuana outside the registrant's residence and may be subject to prosecution for failure to do so. If the registrant is unable to produce a valid § 4909A of this title registration card within 2 weeks of the summons, the penalty for a violation of this section shall be an unclassified misdemeanor and jurisdiction shall be exclusively in Superior Court.

(x\_) For registered qualifying patients and designated caregivers, medical marijuana shall be contained, when not being prepared for ingestion or ingested and outside the registrant's residence, within, sealed, tamperproof containers issued by compassion centers pursuant to Department regulations and may be subject to prosecution for failure to do so. If the registrant is unable to produce a sealed, tamperproof container within 2 weeks of the summons, the penalty for a violation of this section shall be an unclassified misdemeanor.

## SYNOPSIS

This act makes various edits to the existing Medical Marijuana Act, including, but not limited to:

- Adding requirements for registration of a compassion center, including information about any labor peace agreement with a bona fide labor organization assuring an uninterrupted supply of medicine, and to disclose any record of previous violations, investigations, citations, administrative proceedings, or lawsuits related to any laws or regulations relating to employment, workplace safety, wages and compensation, discrimination, any other worker protections, tax, or any other relevant laws and regulation by any business owned or operated by the applicant, principal, or managerial employees.
- Expands the authority of the Department to include evaluation of compassion center registration certificate renewals.
- Expands considerations by the Department for an applicant of a compassion center to include the centers plan to maintain pesticide free medical marijuana, the center's employment standards, and evidence that they have no history of disciplinary action and/or investigations.
- Includes in the criteria for compassion center and safety compliance facilities renewals to submit any history of disciplinary action and/or investigations.
- Removes the requirement for volunteers of compassion center, or registered safety compliance facilities to undergo background checks every 5 years.
- Requires a compassion center or a registered safety compliance facility to report any legal proceedings, judgments, or government investigations against them, or its owners, principals or managerial employees and to provide sufficient compensation to support the worker's family, health and welfare, and cost of living.