

2015 Legislative Summary - Marijuana:

Prohibition of Use of EBT Cards (HB 15-1255 & SB 15-065)

- Annual reporting requirement on January 1 (and July 1, 2016 for the first year) to the GA by DOR and DHS of instances that a client accessed cash benefits through EBT at an ATM located in a prohibited location (MJ, Gaming, Liquor, Racing, Adult).
- DOR and DHS adopt rules by January 1, 2016 to enforce prohibition of accessing benefits at an ATM at a prohibited location that apply to both EBT clients and DOR licensees. Rules must include increasing penalties for multiple violations.
- Required signage at location of an ATM in a EBT prohibited licensed premise
- Penalty to DOR licensees capped a \$100 per violation

MJ Reference Lab (HB 15-1283)

- CDPHE to create a testing reference library accessible to the public by December 31, 2015
- Requires CDPHE or its contractor to perform proficiency testing and problem remediation with testing facilities licensed by DOR
- DOR to adopt rules on process validation potency testing for multi-serving packages of 10mg pieces of retail marijuana products
- DOR to adopt rules on acceptable variance of plus or minus 15 percent for potency representations in labeling

Unregulated MJ Concentrate (HB 15-1305)

- Unlawful for any person not licensed by DOR to knowingly manufacture marijuana concentrate using an inherently hazardous substance.
- Violation shall be a level 2 drug felony.
- Applies to anyone who owns, manages, operates or otherwise controls the use of any premises to knowingly allow marijuana concentrate to be manufactured on the premises using an inherently hazardous substance.

- Inherently hazardous substance is defined as any liquid chemical, compressed gas, or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including butane, propane, and diethyl ether, excluding all forms of alcohol and ethanol.

Retail MJ Taxes (HB 15-1367)

- Refers a new ballot measure to the voters to seek approval necessary to avoid a refund of an estimated \$58 million in retail marijuana tax collections from 2014 due to TABOR provisions.
- If the ballot measure is approved, these retail marijuana tax collections from 2014 shall be retained by the state. If the ballot measure fails it will trigger a refund of these tax proceeds.
- Triggers another TABOR provision that requires a reduction in the retail marijuana tax rates without voter approval to keep the rates the same.
- General assembly elected to reduce the retail marijuana tax rates for retail sales of marijuana and eligible wholesale transfers subject excise tax (amount of reduction is dependent upon whether ballot measure passes or fails)

Permitted Economic Interest (HB 15-1379)

- Allows for any unsecured convertible debt instrument, option agreement, warrant, or any other right to obtain an ownership interest when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent upon qualification and obtaining a license as an owner.
- MED required to adopt rules on PEIs and processes surrounding obtaining a PEI registration including application process, criminal history check, divestiture and other agreements that would qualify as a PEI by January 1, 2016.

Restrictions on One Time Transfer of MJ (HB 15-1387)

- Beginning July 1, 2016, regarding conversion of a medical marijuana business license to a retail marijuana establishment license or co-location of an existing medical marijuana business license and a retail marijuana establishment license, such licensing arrangements shall not be allowed to transfer medical marijuana inventory from a center or infused product manufacturer to any retail marijuana establishment. The only transfer of medical marijuana allowed under such circumstances is the transfer of medical marijuana from a medical marijuana cultivation facility to a retail marijuana cultivation facility.

Caregivers (SB 15-014)

- Board of Health shall establish guidelines for physicians making medical marijuana recommendations.
- Creates four types of caregivers: parent of a child, advising, transporting, and cultivating.
- Defines significant responsibility, which includes cultivating, advising and transporting marijuana to or for a patient.
- Requires CDPHE to adopt rules to establish guidelines for primary caregivers to give informed consent to patients that their marijuana may contain contaminants and that cannabinoid levels may not be verified.
- CDPHE shall convene a group of interested parties (including DOR) to explore laboratory testing options for medical marijuana not produced by licensed businesses.
- Primary caregivers that cultivate or transport medical marijuana for a patient must register with DOR. An occupational licensee may be a registered primary caregiver.
- A cultivating primary caregiver must give the cultivation location, registration numbers of each patient and extended plant count numbers when registering with DOR.
- A transporting primary caregiver must provide the patient registration number of each homebound patient, total number of plants and ounces of

medical marijuana the caregiver is authorized to transport, and the location of each patient's registered medical marijuana center or cultivating primary caregiver.

- A transporting caregiver shall have on his or her person a receipt from the MMC or cultivating primary caregiver when transporting medical marijuana purchased or provided to the transporting caregiver for their patient.
- DOR may verify patient registration numbers and extended plan count numbers with CDPHE to confirm that a patient does not have more than one primary caregiver or does not have both a caregiver and an MMC cultivating medical marijuana on their behalf.
- A peace officer making an LE contact with a primary caregiver who does not have proper documentation showing registration with the state licensing authority may report the individual to DOR and may take appropriate law enforcement action. The primary caregiver may be subject to any chargeable criminal offenses.
- A cultivating primary caregiver shall only cultivate plants at the registered cultivation location for registered patients as required. A primary caregiver or person 21 years of age may cultivate or possess up to six plants pursuant to the state Constitution. Any additional cultivation beyond these provisions is not lawful at the registered premises.
- Patients cultivating more than six plants for their own medical use are encouraged to register with DOR. If the patient chooses to register, they shall register the cultivation location, their patient registration number and the number of plants they are authorized to grow.
- A patient shall not cultivate more than 99 plants.
- A primary caregiver may not cultivate more than 36 plants unless they have one or more patients that have an extended plant count.
- A primary caregiver shall not cultivate more than 99 plants.
- Provides for the sharing of cultivation information to state and local law enforcement through CCIC.
- Nothing in this legislation shall reduce or eliminate existing power of a statutory municipality or county through the Local Government Land Use

Control Enabling Act of 1974 to regulate growing of marijuana commercially or otherwise.

- A person engages in a deceptive trade practice if they knowingly represent hemp, hemp oil, or any derivative of a hemp plant as retail or medical marijuana unless it fully satisfies the statutory definitions contained with the medical and retail marijuana code.
- Authorizes a school district to adopt a policy that authorizes a student's parent or a medical professional to assist the student with the administration or medical marijuana and to possess medical marijuana in an appropriate location on school grounds, upon a school bus, or at a school-sponsored event. If a parent administers the medical marijuana they must be registered as a parent primary caregiver for the student. The location and method of administration shall not create a significant risk to other students.

Medical MJ Sunset Review (SB 15-115)

- Primary revisions to the medical marijuana code are intended to align and harmonize requirements contained within the retail marijuana code which was created after the medical marijuana code.
- Confidentiality of information provided by licensees
- Seed to sale tracking system requirement added
- Harmonize licensing qualification criteria
- Allow for administrative continuance of a license
- Allow for an OPC to directly transfer medical marijuana to a licensed MMC without first going through the associated MMC
- MIPs may not infuse trademarked food products
- DAs shall notify MED if they are investigating a licensed business. MED shall not destroy MMJ or MMJ products without approval of the DA that notified them of the investigation.
- Medical Marijuana Program shall not sunset until September 1, 2019
- Employees of the SLA that have regulatory oversight of marijuana businesses licensed by DOR shall not work for, represent, or provide

consulting services to or otherwise derive pecuniary gain from a licensed marijuana business or other business entity established for the primary purpose of providing services to the marijuana industry for six months following their last day of employment with the DOR.

- Any person who discloses confidential information in violation of the confidentiality provisions commits a class 1 misdemeanor. Prosecution must be brought within 5 years from the date of the violation.

Industrial Hemp Testing (SB 15-196)

- Authorizes the testing of industrial hemp for THC content by a retail testing facility licensed by DOR. The person requesting the testing of industrial hemp must be registered with DOA as an industrial hemp grower.
- Changed the composition of the Industrial Hemp Committee to include a representative from the CBD Industry and a Certified Industrial Hemp Seed Grower.
- DOA shall administer a certified seed program for industrial hemp.
- Requires registered hemp growers that wish to have a licensed retail testing facility test their hemp to utilize a RFID based inventory tracking system approved by DOA that is compatible with the DOR inventory tracking system.
- DOA may adopt rules to require approved shipping documentation for the transportation of hemp.

Medical MJ Mandatory Testing (SB-260)

- SLA authorized to adopt rules establishing a medical marijuana and medical marijuana infused products independent testing and certification program for medical marijuana licensees. To be established by DOR with an implementation time frame ensuring that products sold for human consumption do not contain contaminants that are injurious health and ensure accurate labeling.
- Testing may include microbial, residual solvent and chemical contaminant analysis.

- Authorizes quarantine of products that have test results that indicate the presence of quantities of any substance that is injurious to health. Such products must be destroyed.
- Testing shall also verify THC potency representations and homogeneity for correct labeling and CBD profile.
- SLA shall determine an acceptable level of variance in potency representation
- SLA shall establish protocols and frequency of required testing
- CDPHE shall provide standards for licensing testing laboratories to the SLA
- Mandatory MMJ testing shall not begin until after a reference library and proficiency test and standards are in place.
- Creates new class of license – Medical Marijuana Testing Facility
- Medical Marijuana Businesses shall only submit testing samples to MMJ Testing Facilities licensed by DOR.
- Legislation is effective July 1, 2016

Implementation of 2014 Session Bills:

HB 14-1361 Equivalency of Flower to Concentrate

- Equivalency Study
- Adopt rules by January 1, 2016 establishing the equivalent of one ounce of retail marijuana flower for retail marijuana products including concentrate.
- Working group this summer to review equivalency study and propose rules for implementation

HB 14-1366 Retail Marijuana Edible Products

- HB 14-1366 Report – Working group beginning August 1, 2014 and report issued by February 1, 2015
- Adopt rules by January 1, 2016 requiring that edible retail marijuana products be clearly identifiable, when practicable, with a standard symbol indicating it contains marijuana and is not for consumption by children
- Second working group this summer to propose rules for implementation