



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2105/2
MPG&CMH:kjf

2017 SENATE BILL 104

March 9, 2017 - Introduced by Senators C. LARSON, WIRCH, VINEHOUT and HANSEN, cosponsored by Representatives ANDERSON, SARGENT, SINICKI, BILLINGS, SUBECK, HESSELBEIN, OHNSTAD, CROWLEY, BERCEAU, POPE, DOYLE, C. TAYLOR and ZEPNICK. Referred to Committee on Health and Human Services.

1 **AN ACT** *to repeal* 961.34 (2) (b); *to renumber* subchapter XIV of chapter 440
2 [precedes 440.99] and 961.32; *to renumber and amend* 961.34 (2) (a); *to*
3 *amend* 450.03 (1) (e), 961.14 (4) (t), 961.38 (1n) and 961.52 (2) (a) 1. and 2.; and
4 *to create* 440.08 (2) (a) 20r., subchapter XIV of chapter 440 [precedes 440.989],
5 450.07 (2m), 450.071 (1m) and 961.32 (2m) of the statutes; **relating to:**
6 production and possession of cannabidiol for treatment of a medical condition
7 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill establishes a licensure program administered by the Department of Safety and Professional Services for producers of cannabidiol. Under the bill, a person may possess tetrahydrocannabinols to produce CBD oil, and may produce CBD oil and deliver it, only if the person is licensed by DSPS and only if the CBD oil is produced in a form without a psychoactive effect for the treatment of a medical condition.

The bill also makes certain changes to the requirements for possessing CBD oil and dispensing it to patients. Current law designates THC as a schedule I controlled substance and defines THC to exclude CBD oil in a form without a psychoactive effect that is dispensed by a pharmacy or physician approved by the Controlled Substances Board to treat a seizure disorder or that is possessed by a person with documentation

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from a physician that the CBD oil is to treat a seizure disorder. Under the bill, THC does not include CBD oil in a form without a psychoactive effect without regard to who dispenses it or possesses it. The bill also specifies that any person may possess CBD oil to treat a medical condition and that any pharmacy or physician may dispense CBD oil to treat a medical condition.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.08 (2) (a) 20r. of the statutes is created to read:

2 440.08 (2) (a) 20r. Cannabidiol producer: June 1 of each odd-numbered year.

3 **SECTION 2.** Subchapter XIV of chapter 440 [precedes 440.989] of the statutes
4 is created to read:

5 **CHAPTER 440**

6 SUBCHAPTER XIV

7 CANNABIDIOL PRODUCERS

8 **440.989 Definition.** In this subchapter, “licensed producer” means a
9 cannabidiol producer licensed under s. 440.9892.

10 **440.9891 License required. (1)** No person may engage in the production of
11 cannabidiol in this state unless the person is a licensed producer.

12 **(2)** A person need not be a licensed producer to engage in an activity that is
13 within the scope of another valid state or federal license, permit, registration, or
14 certification.

15 **440.9892 Licensure; renewal. (1)** The department shall grant a license to
16 engage in the production of cannabidiol to a person who does all of the following:

- 17 (a) Submits an application for licensure on a form provided by the department.
- 18 (b) Pays the fee specified in s. 440.05 (1).

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1 (c) Satisfies all other requirements established by the department by rule.

2 (2) The renewal date for a license granted under sub. (1) is specified in s. 440.08

3 (2) (a). A renewal application shall be submitted to the department on a form
4 provided by the department and shall include the renewal fee determined by the
5 department under s. 440.03 (9) (a).

6 **440.9893 Production and delivery.** A licensed producer may produce
7 cannabidiol and may deliver cannabidiol to any other person if all of the following
8 conditions are satisfied:

9 (1) The cannabidiol is in a form without a psychoactive effect.

10 (2) The cannabidiol is for the treatment of a medical condition.

11 **440.9894 Disciplinary proceedings and actions.** (1) Subject to the rules
12 promulgated under s. 440.03 (1), the department may conduct investigations and
13 hold hearings to determine whether a violation of this subchapter or a rule
14 promulgated under this subchapter or a violation of another law that substantially
15 relates to the production of cannabidiol has occurred.

16 (2) Subject to the rules promulgated under s. 440.03 (1), the department may
17 reprimand a licensed producer or deny, limit, suspend, or revoke a license granted
18 under s. 440.9892 if the department finds that an applicant for licensure or a licensed
19 producer has done any of the following:

20 (a) Intentionally made a material misstatement in an application for a license
21 or license renewal.

22 (b) Advertised in a manner that is false or misleading.

23 (c) Obtained or attempted to obtain compensation through fraud or deceit.

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1 (d) Violated this subchapter or a rule promulgated under this subchapter or
2 violated another law that substantially relates to the production or delivery of
3 cannabidiol.

4 (3) In addition to or in lieu of a reprimand or other action under sub. (2), the
5 department may assess against a licensed provider, for the violations enumerated
6 under sub. (2), a forfeiture of not more than \$1,000 for each separate offense.

7 **440.9895 Penalties.** Any person who violates this subchapter or any rule
8 promulgated under this subchapter may be fined not more than \$1,000 or imprisoned
9 for not more than 90 days or both.

10 **SECTION 3.** Subchapter XIV of chapter 440 [precedes 440.99] of the statutes is
11 renumbered subchapter XV of chapter 440 [precedes 440.99].

12 **SECTION 4.** 450.03 (1) (e) of the statutes is amended to read:

13 450.03 (1) (e) Any person lawfully practicing within the scope of a license,
14 permit, registration, certificate, or certification granted to provide home medical
15 oxygen under s. 450.076, to produce cannabidiol under subch. XIV of ch. 440, to
16 practice professional or practical nursing or nurse-midwifery under ch. 441, to
17 practice dentistry or dental hygiene under ch. 447, to practice medicine and surgery
18 under ch. 448, to practice optometry under ch. 449, or to practice veterinary medicine
19 under ch. 89, or as otherwise provided by statute.

20 **SECTION 5.** 450.07 (2m) of the statutes is created to read:

21 450.07 (2m) No license under this section is required for a cannabidiol producer
22 licensed under s. 440.9892 acting within the scope of that license.

23 **SECTION 6.** 450.071 (1m) of the statutes is created to read:

24 450.071 (1m) The board shall exempt a cannabidiol producer licensed under
25 s. 440.9892 from the licensing and other requirements under this section.

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1 **SECTION 7.** 961.14 (4) (t) of the statutes is amended to read:

2 961.14 (4) (t) Tetrahydrocannabinols, commonly known as “THC”, in any form
3 including tetrahydrocannabinols contained in marijuana, obtained from marijuana,
4 or chemically synthesized, except that tetrahydrocannabinols do not include
5 cannabidiol in a form without a psychoactive effect ~~that is dispensed or documented~~
6 ~~as provided in s. 961.38 (1n);~~

7 **SECTION 8.** 961.32 of the statutes is renumbered 961.32 (1m).

8 **SECTION 9.** 961.32 (2m) of the statutes is created to read:

9 961.32 (2m) A cannabidiol producer licensed under s. 440.9892 may possess
10 tetrahydrocannabinols if the possession is only for the purpose of producing
11 cannabidiol in a form without a psychoactive effect for the treatment of a medical
12 condition. Any person may possess cannabidiol in a form without a psychoactive
13 effect if the possession is for the treatment of a medical condition.

14 **SECTION 10.** 961.34 (2) (a) of the statutes is renumbered 961.34 (2) and
15 amended to read:

16 961.34 (2) Upon the request of any physician, the controlled substances board
17 shall aid the physician in applying for and processing an investigational drug permit
18 under 21 USC 355 (i) for cannabidiol as treatment for a seizure disorder. ~~If the~~
19 ~~federal food and drug administration issues an investigational drug permit, the~~
20 ~~controlled substances board shall approve which pharmacies and physicians may~~
21 ~~dispense cannabidiol to patients medical condition.~~

22 **SECTION 11.** 961.34 (2) (b) of the statutes is repealed.

23 **SECTION 12.** 961.38 (1n) of the statutes is amended to read:

24 961.38 (1n) A pharmacy or physician ~~approved under s. 961.34 (2) (a) or (b)~~ may
25 dispense cannabidiol in a form without a psychoactive effect as a treatment for a

SENATE BILL 104**SECTION 12**

1 ~~seizure disorder~~ medical condition or any physician may provide an individual with
2 a hard copy of a letter or other official documentation stating that the individual
3 possesses cannabidiol to treat a ~~seizure disorder~~ medical condition if the cannabidiol
4 is in a form without a psychoactive effect.

5 **SECTION 13.** 961.52 (2) (a) 1. and 2. of the statutes are amended to read:

6 961.52 **(2)** (a) 1. Places where persons authorized under s. 961.32 (1m) to
7 possess controlled substances in this state are required by federal law to keep
8 records; and

9 2. Places including factories, warehouses, establishments and conveyances in
10 which persons authorized under s. 961.32 (1m) to possess controlled substances in
11 this state are permitted by federal law to hold, manufacture, compound, process, sell,
12 deliver or otherwise dispose of any controlled substance.

13 (END)