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State of Misconsin 2015 - 2016 LEGISLATURE

LRB-4462/1 MPG&CMH:ahe

2015 SENATE BILL 772

March 3, 2016 – Introduced by Senator C. Larson, cosponsored by Representatives Kahl, Brostoff, Sinicki, Goyke, Berceau, Johnson and Wachs. Referred to Committee on Judiciary and Public Safety.

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

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 seizure disorder and that any pharmacy or physician may dispense CBD oil to treat a seizure disorder.

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.
16	(1) The department shall grant a license to engage in the production of

(a) Submits an application for licensure on a form provided by the department.

cannabidiol to a person who does all of the following:

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1	(b) Pays the fee specified in s. 440.05 (1).
2	(c) Satisfies all other requirements established by the department by rule.
3	(2) The renewal date for a license granted under sub. (1) is specified in s. 440.08
4	(2) (a). A renewal application shall be submitted to the department on a form
5	provided by the department and shall include the renewal fee determined by the
6	department under s. 440.03 (9) (a).
7	440.9893 Production and delivery. A licensed producer may produce
8	cannabidiol and may deliver cannabidiol to any other person if all of the following
9	conditions are satisfied:
10	(1) The cannabidiol is in a form without a psychoactive effect.
11	(2) The cannabidiol is for the treatment of a seizure disorder.
12	440.9894 Disciplinary proceedings and actions. (1) Subject to the rules
13	promulgated under s. 440.03 (1), the department may conduct investigations and
14	hold hearings to determine whether a violation of this subchapter or a rule
15	promulgated under this subchapter or a violation of another law that substantially
16	relates to the production of cannabidiol has occurred.
17	(2) Subject to the rules promulgated under s. 440.03 (1), the department may
18	reprimand a licensed producer or deny, limit, suspend, or revoke a license granted
19	under s. 440.9892 if the department finds that an applicant for licensure or a licensed
20	producer has done any of the following:
21	(a) Intentionally made a material misstatement in an application for a license
22	or license renewal.

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

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

(d) Violated this subchapter or a rule promulgated under this subchapter or
violated another law that substantially relates to the production or delivery of
cannabidiol.
(3) In addition to or in lieu of a reprimand or other action under sub. (2), the
department may assess against a licensed provider, for the violations enumerated
under sub. (2), a forfeiture of not more than \$1,000 for each separate offense.
440.9895 Penalties. Any person who violates this subchapter or any rule
promulgated under this subchapter may be fined not more than \$1,000 or imprisoned
for not more than 90 days or both.
SECTION 3. Subchapter XIV of chapter 440 [precedes 440.99] of the statutes is
renumbered subchapter XV of chapter 440 [precedes 440.99].
Section 4. 450.03 (1) (e) of the statutes, as affected by 2015 Wisconsin Acts 3
and 55, is amended to read:
450.03 (1) (e) Any person lawfully practicing within the scope of a license,
permit, registration, certificate, or certification granted to provide home medical
oxygen under s. 450.076, to produce cannabidiol under subch. XIV of ch. 440, to
practice professional or practical nursing or nurse-midwifery under ch. 441, to
practice dentistry or dental hygiene under ch. 447, to practice medicine and surgery
under ch. 448, to practice optometry under ch. 449, or to practice veterinary medicine
under ch. 89, or as otherwise provided by statute.
Section 5. 450.07 (2m) of the statutes is created to read:
450.07 (2m) No license under this section is required for a cannabidiol producer
licensed under s. 440.9892 acting within the scope of that license.

Section 6. 450.071 (1m) of the statutes is created to read:

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1	450.071 (1m) The board shall exempt a cannabidiol producer licensed under
2	s. 440.9892 from the licensing and other requirements under this section.
3	SECTION 7. 961.14 (4) (t) of the statutes is amended to read:
4	961.14 (4) (t) Tetrahydrocannabinols, commonly known as "THC", in any form
5	including tetrahydrocannabinols contained in marijuana, obtained from marijuana
6	or chemically synthesized, except that tetrahydrocannabinols do not include
7	cannabidiol in a form without a psychoactive effect that is dispensed or documented
8	as provided in s. 961.38 (1n);
9	SECTION 8. 961.32 of the statutes is renumbered 961.32 (1m).
10	Section 9. 961.32 (2m) of the statutes is created to read:
11	961.32 (2m) A cannabidiol producer licensed under s. 440.9892 may possess
12	tetrahydrocannabinols if the possession is only for the purpose of producing
13	cannabidiol in a form without a psychoactive effect for the treatment of a seizure
14	disorder. Any person may possess cannabidiol in a form without a psychoactive effect
15	if the possession is for the treatment of a seizure disorder.
16	Section 10. 961.34 (2) (a) of the statutes is renumbered 961.34 (2) and
17	amended to read:
18	961.34 (2) Upon the request of any physician, the controlled substances board
19	shall aid the physician in applying for and processing an investigational drug permi
20	under 21 USC 355 (i) for cannabidiol as treatment for a seizure disorder. If the
21	federal food and drug administration issues an investigational drug permit, the
22	controlled substances board shall approve which pharmacies and physicians may
23	dispense cannabidiol to patients.
24	SECTION 11. 961.34 (2) (b) of the statutes is repealed.

Section 12. 961.38 (1n) of the statutes is amended to read:

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961.38 (1n) A pharmacy or physician approved under s. 961.34 (2) (a) or (b) may
dispense cannabidiol in a form without a psychoactive effect as a treatment for a
seizure disorder or any physician may provide an individual with a hard copy of a
letter or other official documentation stating that the individual possesses
cannabidiol to treat a seizure disorder if the cannabidiol is in a form without a
psychoactive effect.

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

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

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

15 (END)