

22103718D

HOUSE BILL NO. 211

Offered January 12, 2022

Prefiled January 10, 2022

A BILL to allow certain pharmaceutical processors to sell cannabis products at retail; sunset.

Patrons—Hodges and Sickles

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. § 1. That, notwithstanding any other provision of law, the Board of Pharmacy shall allow any pharmaceutical processor that holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia to sell cannabis products as defined in § 54.1-3408.3 of the Code of Virginia to unregistered persons who are 21 years of age or older without the need for a written certification. All sales and related activities conducted pursuant to this act shall be subject to all regulations governing pharmaceutical processors set forth in 18VAC110-60 of the Virginia Administrative Code, subject to the following exceptions and requirements:

1. Part II (18VAC110-60-30 et seq.) of 18VAC110-60 and 18VAC110-60-310 of the Virginia Administrative Code shall not apply;

2. Pharmaceutical processors engaging in sales pursuant to the provisions of this act shall:

a. Sell cannabis products only in opaque, child-resistant, tamper-evident, and resealable packaging;

b. Report quarterly to the Board of Pharmacy data regarding all sales conducted pursuant to this act, including information regarding violations, errors, and omissions;

c. Be permitted to cultivate the number of cannabis plants, as determined by the pharmaceutical processor, necessary to serve the demand for sales created by this act;

d. Dedicate a sufficient number of registers at each facility to registered patient sales and maintain sufficient inventory of cannabis products to satisfy the demands of such patients;

e. Be permitted to acquire industrial hemp extract processed in Virginia from Virginia grown hemp biomass, and in compliance with state or federal law, from a registered industrial hemp processor and to process and formulate such extract with cannabis plant extract into cannabis products. Industrial hemp extract acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extract may be acquired;

f. Submit to the Board of Directors of the Virginia Cannabis Control Authority and, upon approval by the Board of Directors of the Virginia Cannabis Control Authority, comply with a plan describing how the pharmaceutical processor will, in its health service area, (i) educate consumers about responsible consumption of cannabis products and (ii) incubate five or fewer independent cannabis retailers for a period of six months or support and educate persons that wish to participate in the cannabis market; and

g. Pay a one-time \$1 million fee to the Department of Taxation prior to engaging in sales pursuant to this act;

3. Pharmaceutical processors engaging in sales pursuant to the provisions of this act shall not:

a. Deliver cannabis products or sell cannabis products at any location other than the pharmaceutical processor and cannabis dispensing facilities for which the pharmaceutical processor holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia;

b. Advertise cannabis products to persons younger than 21 years of age;

c. Sell to a person in a single transaction more than (i) one ounce of botanical cannabis products, (ii) five grams of cannabis concentrate products, or (iii) a quantity of infused cannabis products that contains more than 500 milligrams of tetrahydrocannabinol;

d. Sell any nonbotanical cannabis product with an individual unit dose containing more than 10 milligrams of tetrahydrocannabinol;

e. Be required to comply with any Board of Pharmacy regulation, requirement, or restriction not referenced in this act or any amendments or additions to the regulations referenced in this act unless such regulation, requirement, restriction, amendment, or addition is adopted by the General Assembly; or

f. Be subject to administrative action, liability, or other penalty based on the acts or omissions of any independent cannabis retailer; and

59 4. Unregistered persons without a written certificate shall be permitted to access pharmaceutical
60 processor and dispensing facilities for the purpose of purchasing cannabis products in accordance with
61 the provisions of this act.

62 § 2. That the Board of Pharmacy may suspend the privileges of a pharmaceutical processor to
63 engage in sales under this act for substantial and repeated violations of the provisions of this act.

64 § 3. That a tax of 21 percent shall be levied on the sale of cannabis products by pharmaceutical
65 processors pursuant to this act, which shall be in lieu of any tax imposed under Chapter 6 (§ 58.1-600
66 et seq.) of Title 58.1 of the Code of Virginia or any other state or local law. Pharmaceutical processors
67 shall remit such tax to the Department of Taxation. The Department of Taxation shall deposit tax
68 revenues from the 21 percent excise tax, as well as the fees received from pharmaceutical processors
69 pursuant to § 1 of this act, into the account of the Virginia Cannabis Control Authority to be used to
70 assist independent cannabis retailers located in rural and urban opportunity zones designated by the
71 Board of Directors of the Virginia Cannabis Control Authority.

72 § 4. That the Board of Pharmacy and the Department of Taxation may assess and collect fees from
73 each pharmaceutical processor that sells cannabis products pursuant to this act in an amount sufficient
74 to recover the costs associated with the implementation of the provisions of this act.

75 § 5. That the provisions of this act shall not apply to or otherwise affect the sale of cannabis
76 products to registered patients with written certifications by pharmaceutical processors pursuant to
77 Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act.

78 § 6. That no agent or employee of a pharmaceutical processor or cannabis dispensing facility shall
79 be subject to any disciplinary action by a professional licensing board for (i) possessing or
80 manufacturing marijuana for the purposes of producing cannabis products in accordance with the
81 provisions of this act or (ii) possessing, manufacturing, or distributing cannabis products that are
82 consistent with generally accepted cannabis industry standards in accordance with the provisions of this
83 act.

84 § 7. That the Board of Directors of the Virginia Cannabis Control Authority shall promulgate
85 regulations governing sales, cultivation, extraction, processing, manufacturing, wholesaling, and other
86 related activities conducted pursuant to this act that shall model, to the greatest extent practicable, the
87 regulations of the Board of Pharmacy governing pharmaceutical processors set forth in 18VAC110-60 of
88 the Virginia Administrative Code, subject to the exceptions and requirements set forth in § 1 of this act.
89 Upon the adoption of such regulations by the Board of Directors of the Virginia Cannabis Control
90 Authority, (i) oversight of all sales, cultivation, extraction, processing, manufacturing, wholesaling, and
91 other related activities conducted pursuant to this act shall transfer from the Board of Pharmacy to the
92 Board of Directors of the Virginia Cannabis Control Authority and (ii) the Board of Directors of the
93 Virginia Cannabis Control Authority shall be vested with all powers and duties conferred upon the
94 Board of Pharmacy pursuant to this act.

95 § 8. That the provisions of this act shall expire when pharmaceutical processors engaging in the sale
96 of cannabis products pursuant to the provisions of this act are authorized by the Virginia Cannabis
97 Control Authority to apply for and be granted licenses to cultivate, manufacture, wholesale, and sell at
98 retail to consumers 21 years of age or older retail marijuana and retail marijuana products at the
99 pharmaceutical processor and cannabis dispensing facilities for which the pharmaceutical processor
100 holds a permit pursuant to § 54.1-3442.6 of the Code of Virginia.