UNC SCHOOL OF GOVERNMENT

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PUBLIC/SENATE BILLS

S 711 (2021) NC COMPASSIONATE CARE ACT. Filed Apr 7 2021, *AN ACT ENACTING THE NORTH CAROLINA COMPASSIONATE CARE ACT.*

Senate committee substitute to the 1st edition makes the following changes.

Revises new Article 5H, the NC Compassionate Care Act, as follows. Makes organizational and technical changes; correct statutory cross-references. Modifies the legislative findings to reflect the action of other states related to criminal penalties for the medical use, cultivation, and distribution of cannabis as of May 2021 (was, January). Adds to the defined terms: Advisory Board; Department (defined as the Department of Health and Human Services/DHHS); production facility; and supplier. Replaces the term *licensed cannabis products facility* with *production facility*, defined as a facility owned and operated by a supplier that cultivates, possesses, and produces cannabis and cannabis-infused products. Replaces the term *licensed medical cannabis supplier* with *supplier*, defined as a person licensed pursuant to GS 90-113.120 to supply cannabis and cannabis-infused products as authorized by the Article, cultivating cannabis, owning and operating one or more medical cannabis centers, and owning and operating one or more production facilities as set forth in GS 90-113.120. Makes changes throughout the Article to refer to a "production facility" and "supplier," as now defined, instead of a "licensed cannabis product facility" or a "licensed medical cannabis supplier;" deletes those terms as previously defined. Adds checking the patient's prescription history in the physician's duty under a *bona-fide physician-patient relationship*. Now includes an edible cannabis product, topical product, ointment, oil, patch, spray, suppository, or tincture in the definition of cannabis-infused product (was, edible products, ointments, and tinctures). Expands upon the diagnoses for which a physician provides a written certification that constitutes a *debilitating medical condition*. Now defines *designated caregiver* as a person who has a valid registry identification card issued by DHHS authorizing the person to assist a qualifying patient with the medical use of cannabis, who is at least 21, unless the person is the parent or legal guardian of each qualifying patient the person assists (was, a person who is at least 21 years of age and who has agreed to assist with a qualified patient's medical use of cannabis).

Replaces the term *licensed medical cannabis center* with the term *medical cannabis center*, defined as a facility owned and operated by a supplier that possesses and dispenses cannabis and cannabis-infused products to registry identification cardholders for human consumption; makes conforming changes throughout to reflect the change in terminology. Now defines *medical use of cannabis or medical use* as the acquisition, administration, possession, preparation, transportation, or use of cannabis and cannabis-infused products, or paraphernalia used to administer cannabis products, to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition and includes the transfer of cannabis products from a designated caregiver to a qualifying patient whom the designated caregiver is authorized to assist; excludes the extraction of resin from cannabis by solvent extraction other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol (ethyl alcohol), unless the extraction is done by a processing facility. Changes the definition of *physician*. Adds to *qualified patient* to require receipt of a written certification. Specifies that a registry identification card is issuable by DHHS. No longer includes a statement in the patient's medical records as an alternative to a signed statement by a physician as a *written certification*. Adds that a written certification must indicate the delivery method of the cannabis. Makes changes throughout to refer to "cannabis" rather than "medical cannabis" (*cannabis* is a defined term in the new Article).

Establishes a 13-member Medical Cannabis Advisory Board (Advisory Board), consisting of nine gubernatorially appointed members and four legislatively appointed members, appointed for up to two four-year terms. States member qualifications. Provides for meetings, and member expenses. Grants the Advisory Board authority to approve adding a debilitating medical condition by majority vote and requires the Board to meet at least two times per year for that purpose.

Adds a new requirement for the registry identification cards to be printed with tamper-resistant technology. Adds to the information that must be included on the cards issued by DHHS to include the name, address, and date of birth of the cardholder, and a designation of whether the cardholder is a designated caregiver or qualifying patient. Also requires the card

to indicate the delivery method of the cannabis. Requires the unique registry number to be alphanumeric, and cards issued to designated caregivers to have the alphanumeric number of the respective qualifying patient. Decreases the cap for the fine for a qualified patient or a designated caregiver to fail to notify DHHS of a change in information contained on the card from no more than $150 to no more than $100. No longer requires mens rea for a violation of the Article to result in suspension or revocation of the card by DHHS (previously required willful violation to trigger card suspension or revocation).

Now requires DHHS to create a secure, confidential, electronic medical cannabis registry database of all qualified patients and designated caregivers to whom DHHS has issued cards, consisting of the name, address, and photo of the cardholder and the name, address, and hospital affiliation of the physician that issued the respective written certification (previously required that DHHS maintain a confidential list of persons to whom cards are issued). Eliminates the previous provision which required DHHS to verify cards to law enforcement. Instead, allows law enforcement agencies to contact DHHS to confirm cardholders. Charges DHHS with monitoring the database and informing the Attorney General's Office (AG) of any patterns of unusual written certifications found, with the AG charged with determining whether to report findings to the SBI and the appropriate sheriff for possible legal violations. Extends the previous confidentiality provisions to cover individual names and other identifying information in the registry. Makes it a Class 2 misdemeanor (was, Class 1 misdemeanor) for any person (including a State or local employee) to breach confidentiality of such protected information, as previously described. Now requires the Medical Care Commission to adopt implementing rules within 270 days of the date the act becoming law (was, 120 days).

Now charges DHHS rather than the Department of Agriculture and Consumer Services with maintenance and operation of the medical cannabis supply system. No longer defines *nonresident employee* in relation to the supply system. Now requires the Medical Cannabis Production Commission (established by the act) to establish the supply system within 270 days of the date the act becomes law (was, 120 days), authorizing suppliers to produce cannabis and cannabis-infused products in production facilities and distribute thorough medical cannabis centers. Adds that the Commission must include a seed-to-sale tracking system in establishing the supply system's regulation, and establish a system that is also financially viable for suppliers.

Now requires a supplier license to grow, cultivate, produce or sell (was, cultivate only) cannabis or cannabis-infused products, or operate a business to produce cannabis or cannabis-infused products (was, establish and operate a business to produce cannabis products); maintains that a license is required to establish or operate a medical cannabis center. Revises the application requirements for a supplier license to include (1) requisite expertise in controlled environment agriculture, and at least five years of experience in cultivation, production, extraction, product development, quality control, and inventory management of medical cannabis in a state-licensed medical or adult use cannabis operation meeting standards specified by the Medical Cannabis Production Commission (Commission); (2) significant technical and technological ability to cultivate, produce, and distribute medical cannabis in a manner that meets industry standards for production consistency and safe handling; (3) relevant experience in securing cannabis production, testing, resources, transportation, and personnel to operate as a safe and secure supplier in compliance with all state regulations in which the applicant has prior experience (replacing the requirements for requisite expertise in controlled environment agriculture and the processing of cannabis to produce medical cannabis meeting standards and appropriate experience and qualifications for processing medical cannabis into cannabis-infused products in a manner that meets industry standards for production consistency and safe handling). Also requires proposed recordkeeping procedures of each component of the supply system to be included in license applications.

Changes the residency requirements for a supplier license as follows. Requires proof that the applicant has been a State resident for at least two years and will be the majority owner of each medical cannabis center and production facility the applicant proposes to operate (previously required proof of North Carolina residency for each principal officer, board member, and employee of the medical cannabis supplier). Allows for the applicant to include nonresident partners with demonstrated ownership and operation experience and proof of residency as specified. Adds to the required application information the name, address, and date of birth of any individual owning more than 5% of the medical cannabis center and production facility the licensee operates. Specifies that the proof of necessary assets to operate includes operation as a supplier for two years.

Establishes further procedures and parameters regarding criminal history record checks of owners, directors, and employees of a supplier. Authorizes national criminal history record checks for persons who have not resided in the State for the past five years. Details procedures for State and national checks. Provides for confidentiality and privilege of information obtained.

Now requires DHHS to issue a medical cannabis production site cards to each supplier for each production facility approved, to be posted at each production facility (previously required to issue a medical cannabis production site card to each licensed medical cannabis supplier for each property, location, or premises approved for cannabis production and each cannabis products facility approved for production of cannabis-infused products under the statute).

Establishes new performance requirements for licensees. Requires licensees to begin cultivation of cannabis within 120 days of receiving a medical cannabis supplier license and begin selling cannabis and cannabis-infused products in medical cannabis centers within 180 days of initiating cultivation. Revises licensing disqualifications to except from disqualification of persons who have not been a State resident for at least two years prior to the date of the application, a person who is a minority partner of a State resident who is the majority owner of the applicant. Specifies that suppliers can only sell cannabis or cannabis-infused products through the medical cannabis centers to qualified patients, designated caregivers, or by the supplier to resale to another licensed supplier. Specifies that the immunity from exemption from criminal laws apply to individuals (rather than suppliers) in compliance (was, substantial compliance) with the Article and rules adopted thereunder. Adds to the acts which trigger loss of the exemption to include (1) driving while impaired in violation of specified state laws, and (2) delivering cannabis to any individual the person has reason to know is not a qualified patient or designated caregiver who holds a valid card or a supplier who holds a license. No longer specifies driving while impaired by cannabis specifically as a triggering offense, or that a person should not be considered impaired solely for having cannabis metabolites in his system.

Requires DHHS to perform annual inspections of the premises of licensees, including any production facility or medical cannabis center (was, permitted to inspect the premises of licensees, including any cannabis products facility, medical cannabis center, and facilities or locations used for production of medical cannabis). Establishes security measures and inspection requirements of suppliers, production facilities, and medical cannabis centers, including requiring suppliers to implement security measures adopted by the Commission in consultation with the SBI, and subjecting production facilities and medical cannabis centers owned and operated by a supplier to random inspection by DHHS and the SBI in accordance with rules adopted by the Commission. Requires that of the medical cannabis centers operated by each supplier that at least two be located in Tier 1 counties. Makes technical changes.

Adds the following offenses and penalties. Makes it a Class G felony to manufacture, sell, deliver, or possess with intent to manufacture, sell, or deliver cannabis in violation of this Article at a medical cannabis center or production facility. Makes it a Class H felony to create, sell, deliver, or possess with intent to sell or deliver counterfeit cannabis in violation of this Article at a medical cannabis center or production facility. Makes it a Class A1 misdemeanor to possess an amount of cannabis up to 1 1/2 ounces in violation of this Article, at a medical cannabis center or production facility. Makes it a Class H felony to possess an amount of cannabis that exceeds 1 1/2 ounces in violation of this Article, at a medical cannabis center or production facility. Makes it a Class 1 misdemeanor to provide DHHS with false or misleading information in relation to a registry identification card or license. Makes it a Class I felony for any person who has been issued a valid registry identification card who is found to be in possession of cannabis in violation of this Article. Adds that if a person is convicted of a violation of GS 90-95(h)(1) (trafficking in marijuana), and it is found that the offense was committed at a medical cannabis center or production facility or with cannabis from a medical cannabis center or production facility, then the person must be sentenced at a felony class level one class higher than the principal felony for which the person was convicted, and an additional 12 months will be added to the mandatory minimum sentence. Prohibits sentencing at a level higher than a Class C felony. Requires an indictment or information for the felony to allege the facts that qualify the offense for an enhancement under this provision. Adds that one pleading is sufficient for all felonies that are tried at a single trial. Specifies that these new penalties can be imposed in addition to any other penalties provided by law.

Changes membership and appointment of the nine-member Commission as follows. Now includes (1) a qualified patient representative and two industry representatives meeting specified qualifications, appointed by the Governor; (2) two legislatively appointed members; (3) the Secretary of DHHS or a designee; (4) the Director of the SBI or a designee; (5) a sheriff designated by the NC Sheriffs' Association; and (6) a member of the NC Medical Board (previously provided for five members appointed by the Governor and four members appointed by the NCGA with no further criteria). Regarding the licensing power of the Commission, now charges DHHS with evaluating the applications and submitting a list of 20 applicant to the Commission for the Commission to approve 10 licenses from the list by majority vote. Now directs the Commission to adopt implementing rules within 270 days of the date the act becomes law. Adds to the requirements of the rules to include ensuring the equitable distribution of medical cannabis centers throughout the State as specified.

Enacts new GS 90-113.124 requiring DHHS to establish standards for and license up to five independent testing labs to test cannabis and cannabis-infused products that are to be sold in this State. Requires an independent testing lab to analyze a representative sample before the sale or transfer to a medical cannabis center by a production facility; requires the lab to report the results of all required testing to DHHS. Makes an independent testing lab responsible for selecting, picking up, and testing samples. Requires DHHS to adopt rules to establish, at least: (1) standards for testing cannabis and cannabis products, including specifying prohibited concentrations of contaminants that are injurious to human health; (2) standards for independent testing labs; (3) standards and requirements necessary for the licensing of an independent testing lab; (4) remedial

actions to be taken if the representative sample does not meet DHHS standards; and (5) a fee schedule for independent testing labs.

Enacts new GS 90-113.126 requiring the production facility or medical cannabis center logo, advertising, and signage to be tasteful, respectful, and medically focused; prohibits it from appealing to minors or containing cartoon-like figures or attempts at humor. Prohibits suppliers from using marijuana leaves or cannabis slang on their signs, logos, packaging or structures, as well as prohibiting the use of neon in signs, logos, packaging, or on structures. Requires suppliers to submit logos or signs to DHHS for review. Requires production facilities and medical cannabis centers owned and operated by a supplier to have a discreet, professional appearance compatible with existing commercial structures or land uses in the immediate area. Requires suppliers to safely package and accurately label cannabis or cannabis-infused products and requires items sold at a medical cannabis center to be properly labeled and in child-resistant packaging. Prohibits labels from including strain names and requires labels to include at least six specified items, including the name of the medical cannabis center, the percentage of tetrahydrocannabinol and the percentage of cannabidiol within a profile tolerance range of 10%, and the length of time it takes for the product to take effect. Requires cannabis products to be placed in child-resistant packaging before leaving the medical cannabis center. Requires DHHS to adopt rules that at least: (1) establish requirements and procedures for the safe, appropriate, and accurate packaging and labeling of cannabis and cannabis-infused products for human consumption, including prohibiting the use of any images designed or likely to appeal to minors; (2) establish requirements to ensure that cannabis and cannabis-infused products for human consumption are designed, marketed, and packaged in a manner appropriate for a medicinal product and that does not resemble food typically marketed to children; and (3) establish restrictions on the forms and appearance of edible cannabis-infused products in order to reduce their appeal to minors.

Enacts new GS 90-113.128 requiring the destruction or disposal of production center cannabis by-product, cannabis scrap, and harvested cannabis not intended for distribution to a medical cannabis center or independent testing lab. Requires keeping documentation of the destruction or disposal for at least one year and requires a record of the date of destruction and the amount destroyed. Requires a medical cannabis center to destroy all cannabis and cannabis-infused products that are not sold to qualifying patients or designated caregivers. Requires documentation of the destruction and disposal for no less than a year and requires a record of the date of destruction and the amount destroyed. Requires a medical cannabis center to also destroy all unused cannabis products that are returned to the center by a formerly qualifying patient who no longer qualifies or by the former qualifying patient's caregiver.

Enacts new GS 90-113.130 requiring DHHS to establish a web-based verification system allowing DHHS personnel, State and local law enforcement personnel, and medical cannabis centers to enter a registry identification card number to determine whether the number corresponds with a current, valid registry identification card. Limits the information that the system may disclose to seven specified items. Specifies who may have access to the system. Requires before cannabis or cannabis-infused products are dispensed to a registry identification cardholder that a medical cannabis center employee access the system and determine that: (1) the registry identification card presented at the medical cannabis center is valid; (2) each person presenting a registry identification card is the person identified on the card; (3) the amount to be dispensed would not cause a qualifying patient to exceed the limit on obtaining no more than an adequate supply of cannabis or cannabis-infused products during any thirty-day period; (4) the cannabis to be dispensed complies with the delivery method; and (5) after making the determinations required in (3), but before dispensing cannabis or cannabis-infused products to a registry identification cardholder, a medical cannabis center employee must enter specified information into the system on the amount of the product, who it is dispensed to, date and time it is to be dispensed, and the dispensing center's registry identification number.

Recodifies proposed GS 90-113.128 (North Carolina Cannabis Research Program) as GS 90-113.132 and makes the following changes. Expands upon the NCGA's stated intent to also include that the UNC System undertake objective, scientific research on the administration of cannabis-infused products (in addition to cannabis) as part of medical treatment. Deletes the provision stating that if the UNC BOG accepts this responsibility via resolution, then UNC must create a program to be known as the North Carolina Cannabis Research Program and instead requires UNC to create the program without BOG mention. Makes additional clarifying changes.

Enacts new GS 90-113.134 establishing the North Carolina Medical Cannabis Program Fund within DHHS to ensure there are funds to carry out DHHS's responsibilities under this Article. Requires revenues in excess of the amount needed to implement, administer, and enforce the Article to be distributed to the General Fund annually.

Enacts new GS 90-113.136 protecting a registry identification cardholder from arrest, prosecution, or penalty for the possession or purchase of cannabis or medical use by the qualified patient of the quantity if the cannabis possessed or

purchased does not exceed an adequate supply; sets out provisions for calculating the amount the patient possesses. Prohibits arresting, prosecuting, or penalizing a supplier for producing, possessing, distributing, or dispending cannabis or cannabis-infused products in a manner that is consistent with this Article.

Enacts new GS 90-113.138 requiring DHHS, in consultation with medical professionals, to develop an education campaign about the regulated medical cannabis supply system, with the campaign regularly advertised through television, online, or social media. Sets out elements that must be included in the educational campaign. Also requires DHHS to make the information available online.

Enacts new GS 90-113.144 requiring DHHS, in consultation with the Commission and Advisory Board, to report annually on the effectiveness of the medical cannabis program and any recommended changes. Sets out eight items that must be included in the report, while protecting the identify of specified individuals and entities, including the number of qualifying patients and designated caregivers served by each medical cannabis center during the report year; the nature of the debilitating medical conditions of the qualifying patients and a breakdown of qualifying patients by age group; the number of registry identification cards denied, suspended, or revoked; and the number of suppliers, production facilities, and medical cannabis centers by county. Requires the report to be submitted to the specified NCGA committees annually by October 1, beginning in 2022.

Recodifies proposed GS 90-113.130 (Construction of Article) as GS 90-113.146 and makes the following changes. Replaces references to "marijuana" with "cannabis." Specifies that the Article is not to be construed to require a health insurance provider, health care plan, property and casualty insurer, or medical assistance program to be liable for or reimburse a claim for the medical use of cannabis (was, to require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana). Requires consultations in which physicians diagnose debilitating medical conditions and complete written certifications to be reimbursed consistent with any other visit to a health care facility. Also provides that the Article does not affect or repeal laws relating to negligence or professional malpractice on the supplier, or supplier's agents or employees (was, medical marijuana treatment center or its agents or employees).

Requires the North Carolina Medical Board, no later than 30 days after the act becomes effective, to approve a three-hour continuing medical education course and a one-hour supplemental medical education course on cannabis and cannabis-infused products.

Deletes the previous Section 2 of the act, which set out provisions that applied during the period between the effective date of this act and 30 days after the effective date of adopted rules.

Deletes the proposed changes to GS 105-164.4, which imposed a privilege tax of 18% on specified cannabis sales.

Amends GS 105-164.13 to exempt from sales tax cannabis or cannabis-infused products sold by a medical cannabis center to a registry identification cardholder.

Further amends GS 106-121 (definitions under Food, Drugs, and Cosmetics Act) by making clarifying changes to the exclusion of cannabis-infused products manufactured by a production facility or sold by a medical cannabis center from the definition of the terms *drug* and *food*.

Repeals Section 8.5(a) and (b) of SL 2015-154, which would have repealed Article 5G of GS Chapter 90 (Epilepsy Alternative Treatment Act), effective July 1, 2021.

Amends GS 90-87 to exclude from the defined term *marijuana*, an adequate supply of cannabis for medical use in compliance with new Article 5H.

Intro. by Rabon, Lee, Lowe.

View summary

GS 90, GS 105, GS 106

Agriculture, **Courts/Judiciary**, **Criminal Justice**, **Criminal Law and Procedure**, **Government**, **State Agencies**, **UNC System**, **Department of Health and Human Services**, **Tax**, **Health and Human Services**, **Health**

S 728 (2021) PPT & SPEAKER UNC BDS OF TRUSTEES APPTS. Filed Jun 25 2021, *AN ACT TO MAKE APPOINTMENTS TO THE BOARDS OF TRUSTEES FOR THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.*

AN ACT TO MAKE APPOINTMENTS TO THE BOARDS OF TRUSTEES FOR THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. SL 2021-63. Enacted June 30, 2021. Effective June 30, 2021.

Intro. by Rabon.

UNCODIFIED

View summary

Education, **Higher Education**, **Government**, **State Agencies**, **UNC System**

ACTIONS ON BILLS

PUBLIC BILLS

H 67: GSC TECHNICAL CORRECTIONS 2021.

Senate: Regular Message Sent To House

H 619: ALCOHOL BEV. MANUFACTURE SALES TAX EXEMPTION.

House: Regular Message Sent To Senate

S 196: GSC SALE OF PROPERTY AMEND/DELAY PROSEC SPLIT. (NEW)

House: Regular Message Sent To Senate

S 198: GSC GOOD FUNDS SETTLEMENT/COMM. RECEIVERSHIP.

House: Regular Message Sent To Senate

S 208: LABOR LAW CHANGES.

Senate: Pres. To Gov. 7/1/2021

S 474: SEPTAGE MANAGEMENT AMENDMENTS.

Senate: Pres. To Gov. 7/1/2021

S 605: NORTH CAROLINA FARM ACT OF 2021.

Senate: Pres. To Gov. 7/1/2021

S 711: NC COMPASSIONATE CARE ACT.

Senate: Reptd Fav Com Substitute
Senate: Com Substitute Adopted
Senate: Re-ref Com On Finance

LOCAL BILLS

H 375: FRANKLINVILLE/LIBERTY/RAMSEUR/ANNEXATIONS.

Senate: Regular Message Sent To House

S 41: REMOVE CERTAIN SATELLITE ANNEXATION CAPS.

House: Regular Message Sent To Senate

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