



## Summary of HB 136, Kentucky's Medical Cannabis Bill

Kentucky's HB 136 would allow qualified patients to use and safely access medical cannabis products. It would make Kentucky the 34<sup>th</sup> medical cannabis state. Here are key provisions of the bill, as passed by the House on February 20, 2020.

**Qualifying for the Program:** To qualify for a medical cannabis ID card, patients must have a qualifying medical condition, pay a \$60 fee, and have a written certification from a physician or advanced practice registered nurse (APRN) with whom they have a bona fide relationship. Regulators will develop the list of qualifying conditions, which must include chronic pain, epilepsy, multiple sclerosis, and nausea or vomiting. Written certifications must be reissued every 90 days, with the physician or APRN performing an exam at least once each year.

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**Caregivers:** Registered caregivers may pick up medical cannabis for their patients. They must be at least 21 years old and Kentucky residents. Caregivers cannot assist more than three patients or have a disqualifying felony offense.

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**Limitations:** Patients could only possess a 30-day supply of cannabis at a time at their residence, and a 10-day supply on their person (other than when transporting cannabis home). Regulators will determine those possession amounts.

Smoking and home cultivation will not be allowed. Vaporizers may not be sold to cardholders under 21. Patients may not drive under the influence, undertake actions under the influence that would be negligent, or use cannabis while incarcerated. Employers may keep enforcing drug testing and drug-free workplace policies.

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**Regulatory Authority:** State licensure boards would be charged with approving practitioners' applications to issue written certifications. They must develop practitioner application processes, standards of care, and continuing medical education requirements.

A new Division of Medical Cannabis, within the Department of Public Health, would develop rules, inspect medical cannabis businesses, process applications, and issue ID cards and business licenses. It would maintain a statewide database for the verification of registry ID cards and to track cardholder purchases in real time.

An eight-member Board of Physicians and Advisors would make recommendations, including related to: the list of qualifying conditions, petitions to add conditions, what amounts of cannabis would constitute a 10-day and 30-day supply, and regulatory protocols and accreditation. The board would

also review scientific data.

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**Medical Cannabis Businesses:** The department would issue five types of licenses: cultivators (with four tiers based on size), dispensaries, processors, producers, and safety compliance facilities (testing labs). Applications must be acted on within 45 days. Regulators must license at least 15 cultivators, 25 dispensaries, five processors, and three producers. The Department will use an impartial, numerically scored process for licensing. It will also develop a biennial accreditation process.

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**Regulatory Requirements:** Medical cannabis businesses must comply with regulations governing delivery, transportation, recordkeeping, lab testing, health and safety, packaging, labeling, inventory control, insurance, employment and training, and security — including video surveillance, alarms, and lighting. Advertising would be prohibited. Dispensaries could not sell cannabis with more than 35% THC or exceeding 10 milligrams of THC per serving in oral products. No product could exceed 70% THC. Businesses that break rules could be subject to fines, license suspensions, and revocations.

Dispensaries must establish collaborative relationships with pharmacists. Before making their first purchase, patients or their caregivers must consult with a pharmacist about the risks and benefits of cannabis and any drug interactions.

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**Local Bans and Restrictions:** Local governments could ban medical cannabis businesses entirely or refer the question to voters. Localities could also pass ordinances regulating the time, place, and manner of their business operations.

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**Legal Protections:** A registered patient or caregiver is protected from arrest, prosecution, and the denial of other privileges. This includes anti-discrimination provisions related to housing, child custody, and medical care, including organ transplants. Exceptions apply where federal policy so requires. School boards will determine regulations for allowing medical cannabis on their property.

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**Cannabis Business Licensing Fees:** Initial licensure fees for cannabis businesses would range from \$2,500 for labs to \$75,000 for producers. Renewal fees are based on gross receipts, ranging from \$500 plus 1% of gross receipts for small businesses to \$4,000 plus 2% for those with gross receipts of over \$8 million.

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**Excise Tax:** An excise tax of 12% would be levied on all sales by cultivators, processors, and dispensaries. Eighty percent (80%) of the proceeds would go to the Medical Cannabis Trust Fund, and 20% would go to the Local Medical Cannabis Trust Fund.

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**Medical Cannabis Trust Fund:** All fees and penalties, and a portion of excise taxes, would be deposited in a new fund called the Medical Cannabis Trust Fund.

- 5% would be allocated for a grant program for medical cannabis research
- 5% would be used for a grant program for local law enforcement for medical cannabis enforcement and more impaired driving detection experts
- 5% would be used to subsidize cannabis for low-income patients
- Up to 70% would be used to cover administrative and regulatory costs

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**Local Medical Cannabis Trust Fund:** These revenues would be disbursed on a quarterly basis to counties and municipalities that allow cannabis businesses.

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**Effective Date:** The core protections would take effect on July 1, 2021.

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