



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 495

132nd General Assembly
(As Introduced)

Rep. Seitz

BILL SUMMARY

- Requires, instead of permits, the Director of Commerce to adopt rules to establish a closed-loop payment processing system using a closed-loop debit card under the Medical Marijuana Control Program.
- Requires the system include a means for a medical marijuana entity and registered patient and caregiver to activate and establish an account under the system.
- Requires a medical marijuana entity to deposit money other than money directly generated from the sale of marijuana into an authorized financial institution and use the closed-loop card for all financial transactions.
- Requires a registered patient and caregiver to deposit money into an authorized financial institution and use the closed-loop card to purchase medical marijuana products at licensed retail dispensaries.
- Requires all financial transactions of medical marijuana entities and registered patients and their caregivers and transactions between the entities and their (1) employees, (2) independent contractors, (3) sellers of goods and services, and (4) other medical marijuana entities are conducted via the closed-loop payment processing system and utilize a closed-loop card.
- Requires the Department of Commerce rules to ensure that medical marijuana entities and registered patients and caregivers have access to an authorized financial institution.
- Requires information recorded by the system to be fully accessible to the Department of Commerce, instead of the State Board of Pharmacy under existing law.

CONTENT AND OPERATION

Overview

The bill establishes standards for a payment processing system that must be utilized for all financial transactions under the Medical Marijuana Control Program. That Program creates a licensing system under which medical marijuana may be cultivated, processed, and dispensed to registered patients and caregivers. The Program is scheduled to be fully operational September 8, 2018.

Nationally, participants in medical marijuana programs encounter difficulties when trying to use the banking system because marijuana, regardless if legal under state law, remains illegal under federal criminal law.¹ Federal laws, including the Federal Controlled Substances Act,² the federal Money Laundering Control Act,³ the Bank Secrecy Act,⁴ and the USA PATRIOT Act,⁵ gives federal authorities broad power to punish financial institutions that do business with the marijuana industry. Consequently, banks are reluctant to provide banking services in relation to marijuana enterprises. The marijuana enterprises, in turn, sometimes operate on a cash basis.⁶

Under existing law the Director of Commerce is permitted to adopt rules to establish a closed-loop payment processing system under the Medical Marijuana Control Program, but the bill instead requires the Director to adopt rules for this system and establishes specified requirements for the system. The "**closed-loop payment processing system**" to be created is to be *a cashless system to monitor and facilitate the financial transactions of **medical marijuana entities** (licensed medical marijuana cultivators, processors, dispensaries, and testing laboratories) and registered patients and their caregivers*

¹ 21 United States Code (U.S.C.) 841(a)(1) (making it unlawful "to manufacture, distribute, or dispense . . . a controlled substance"); 21 U.S.C. 802(6) (defining controlled substance to include drugs in "schedule I"); and 21 U.S.C. 812 (classifying marijuana as a schedule I drug).

² 21 U.S.C. 801-904.

³ 18 U.S.C. 1956-1957.

⁴ Public Law 91-508.

⁵ Public Law 107-56.

⁶ "Why Marijuana Businesses Still Can't Get Bank Accounts," Stateline, Pew Charitable Trusts, by Sophie Quinton, March 22, 2016, <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/22/why-marijuana-businesses-still-cant-get-bank-accounts> (accessed February 18, 2018).



*and the financial transactions between medical marijuana entities and their employees, independent contractors, sellers of goods and services, and other medical marijuana entities.*⁷

Closed-loop payment processing system

Under the bill, the closed-loop payment processing system must consist of "**authorized financial institutions**," which is defined as *a state chartered bank or credit union authorized by the Department to participate in the system*, and a "**closed-loop card**," which is *a debit card authorized by the Department to facilitate transactions in the system*. The bill requires that the system provide a means for a medical marijuana entity and a registered patient and caregiver to activate and establish an account under the system.⁸

Deposit into an authorized financial institution and closed-loop card

The bill requires that the medical marijuana entity deposit money other than money directly generated from the sale of marijuana (in Ohio or any other state) into an authorized financial institution, and use the closed-loop card for all financial transactions under the bill.⁹ The registered patient and caregiver must also deposit money into an authorized financial institution and use the closed-loop card to purchase medical marijuana products at licensed retail dispensaries.¹⁰

Financial transactions

In addition, the bill requires that *all* financial transactions of medical marijuana entities and registered patients and their caregivers and financial transactions between medical marijuana entities and their (1) employees, (2) independent contractors, (3) sellers of goods and services, and (4) other medical marijuana entities to be conducted via the closed-loop payment processing system and utilize a closed-loop card. Financial transactions covered by the bill include all of the following:

- Purchases of medical marijuana products at licensed retail dispensaries made by a qualified patient or caregiver;
- Payroll to a medical marijuana entity's employees or payment to independent contractors;

⁷ R.C. 3796.031(A)(3), (A)(4), and (B).

⁸ R.C. 3796.031(A)(1), (A)(2), and (B)(1).

⁹ R.C. 3796.031(B)(2).

¹⁰ R.C. 3796.031(B)(3).



- Payment for goods and services acquired by the medical marijuana entity.¹¹

Enforcement

Under continuing law, a license or registration may be suspended, revoked, or not renewed, and a license holder may be subjected to a civil penalty, for violating rules that the Department of Commerce and State Board of Pharmacy are required to adopt.¹²

Access to authorized financial institutions

The bill requires that the rules adopted by the Department ensure that medical marijuana entities and registered patients and caregivers have access to an authorized financial institution.¹³

Records accessibility

Under existing law, the information recorded by the system must be fully accessible to the State Board of Pharmacy and all state and federal law enforcement agencies, including the U.S. Department of the Treasury's Financial Crimes Enforcement Network. The bill requires information to be accessible by the Department of Commerce instead of the State Board of Pharmacy.¹⁴

HISTORY

ACTION	DATE
Introduced	02-05-18

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¹¹ R.C. 3796.031(B)(4).

¹² R.C. 3796.03(B)(5), 3796.04(B)(5), 3796.14, and 3796.15, not in the bill.

¹³ R.C. 3796.031(C).

¹⁴ R.C. 3796.031(E).

