

Senate File 79 - Introduced

SENATE FILE 79

BY BOLKCOM, DOTZLER, HATCH,
and COURTNEY

A BILL FOR

1 An Act relating to marijuana, including the creation of a
2 medical marijuana Act, and providing for civil and criminal
3 penalties and fees.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.204, subsection 4, paragraph m, Code
2 2013, is amended by striking the paragraph.

3 Sec. 2. Section 124.204, subsection 4, paragraph u,
4 unnumbered paragraph 1, Code 2013, is amended to read as
5 follows:

6 ~~Tetrahydrocannabinols, except as otherwise provided~~
7 ~~by rules of the board for medicinal purposes,~~ meaning
8 tetrahydrocannabinols naturally contained in a plant of
9 the genus Cannabis (Cannabis plant) as well as synthetic
10 equivalents of the substances contained in the Cannabis plant,
11 or in the resinous extractives of such plant, and synthetic
12 substances, derivatives, and their isomers with similar
13 chemical structure and pharmacological activity to those
14 substances contained in the plant, such as the following:

15 Sec. 3. Section 124.204, subsection 7, Code 2013, is amended
16 by striking the subsection.

17 Sec. 4. Section 124.206, subsection 7, paragraph a, Code
18 2013, is amended to read as follows:

19 ~~a. Marijuana when used for medicinal purposes pursuant to~~
20 ~~rules of the board.~~

21 Sec. 5. Section 124.401, subsection 5, Code 2013, is amended
22 by adding the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
24 intentionally possess marijuana if the possession is in
25 accordance with the provisions of chapter 124D.

26 Sec. 6. NEW SECTION. 124D.1 Citation.

27 This chapter shall be known and may be cited as the "*Medical*
28 *Marijuana Act*".

29 Sec. 7. NEW SECTION. 124D.2 Definitions.

30 As used in this chapter, the following definitions shall
31 apply:

32 1. "*Cardholder*" means a qualifying patient, a primary
33 caregiver, or a principal officer, board member, employee,
34 or agent of a nonprofit dispensary who has been issued and
35 possesses a valid registry identification card.

1 2. "*Debilitating medical condition*" means any of the
2 following:

3 a. Cancer, glaucoma, positive status for human
4 immunodeficiency virus, acquired immune deficiency syndrome,
5 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
6 agitation of Alzheimer's disease, nail patella, or the
7 treatment of any of these conditions.

8 b. A chronic or debilitating disease or medical condition
9 or its treatment that produces intractable pain, which is pain
10 that has not responded to ordinary medical or surgical measures
11 for more than six months.

12 c. A chronic or debilitating disease or medical condition or
13 its treatment that produces any of the following:

14 (1) Cachexia or wasting syndrome.

15 (2) Severe nausea.

16 (3) Seizures, including but not limited to those
17 characteristic of epilepsy.

18 (4) Severe and persistent muscle spasms, including but not
19 limited to those characteristic of multiple sclerosis.

20 d. Any other medical condition or its treatment approved by
21 the department.

22 3. "*Department*" means the department of public health.

23 4. "*Enclosed, locked facility*" means a closet, room,
24 greenhouse, or other enclosed area equipped with locks or other
25 security devices that permit access only by a cardholder.

26 5. "*Felony drug offense*" means a violation of a state or
27 federal controlled substance law that was classified as a
28 felony in the jurisdiction where the person was convicted.

29 "*Felony drug offense*" does not include any of the following:

30 a. An offense for which the sentence, including any term of
31 probation, incarceration, or supervised release, was completed
32 ten or more years earlier.

33 b. An offense that involved conduct that would have been
34 permitted under this chapter.

35 6. "*Marijuana*" means the same as defined in section 124.101,

1 subsection 19.

2 7. "*Medical use*" means the acquisition, possession,
3 cultivation, manufacture, use, delivery, transfer, or
4 transportation of marijuana or paraphernalia relating to the
5 administration of marijuana to treat or alleviate a registered
6 qualifying patient's debilitating medical condition or symptoms
7 associated with the patient's debilitating medical condition.

8 8. "*Nonprofit dispensary*" means a not-for-profit entity
9 registered under section 124D.4 that acquires, possesses,
10 cultivates, manufactures, delivers, transfers, transports,
11 sells, supplies, or dispenses marijuana or related supplies and
12 educational materials to cardholders. A nonprofit dispensary
13 is a primary caregiver.

14 9. "*Physician*" means an individual licensed under the
15 provisions of chapter 148 to practice medicine and surgery or
16 osteopathic medicine and surgery.

17 10. "*Primary caregiver*" means a person twenty-one years
18 of age or older who has agreed to assist with a qualifying
19 patient's medical use of marijuana and who has never been
20 convicted of a felony drug offense, and includes a nonprofit
21 dispensary. Unless the primary caregiver is a nonprofit
22 dispensary, the primary caregiver shall not assist more than
23 five qualifying patients with their medical use of marijuana.

24 11. "*Qualifying patient*" means a person who has been
25 diagnosed by a physician with a debilitating medical condition.

26 12. "*Registered nonprofit dispensary*" means a nonprofit
27 dispensary registered by the department pursuant to section
28 124D.4.

29 13. "*Registry identification card*" means a document issued
30 by the department that identifies a person as a registered
31 qualifying patient, registered primary caregiver, or a
32 principal officer, board member, employee, or agent of a
33 nonprofit dispensary.

34 14. "*Unusable marijuana*" means marijuana seeds, stalks,
35 seedlings, and unusable roots. "*Seedling*" means a marijuana

1 plant without flowers which is less than twelve inches in
2 height and less than twelve inches in diameter.

3 15. "*Usable marijuana*" means the dried leaves and flowers of
4 the marijuana plant, and any mixture or preparation thereof,
5 but does not include the seeds, stalks, and roots of the
6 plant and does not include the weight of other ingredients in
7 marijuana prepared for consumption as food.

8 16. "*Visiting qualifying patient*" means a patient with a
9 debilitating medical condition who is not a resident of this
10 state or who has been a resident of this state for less than
11 thirty days.

12 17. "*Written certification*" means a document signed by
13 a physician, stating that in the physician's professional
14 opinion the patient is likely to receive therapeutic or
15 palliative benefit from the medical use of marijuana to treat
16 or alleviate the patient's debilitating medical condition or
17 symptoms associated with the debilitating medical condition.
18 A written certification shall be made only in the course of a
19 bona fide physician-patient relationship after the physician
20 has completed a full assessment of the qualifying patient's
21 medical history. The written certification shall specify the
22 qualifying patient's debilitating medical condition.

23 Sec. 8. NEW SECTION. 124D.3 **Medical use of marijuana.**

24 1. A qualifying patient who has been issued and possesses a
25 registry identification card shall not be subject to arrest,
26 prosecution, or penalty in any manner, or denied any right
27 or privilege, including but not limited to a civil penalty
28 or disciplinary action by a business or occupational or
29 professional licensing board or bureau, for the medical use
30 of marijuana in accordance with this chapter, provided the
31 marijuana possessed by the qualifying patient:

32 a. Is not more than two and one-half ounces of usable
33 marijuana.

34 b. If the qualifying patient has not designated a primary
35 caregiver to cultivate marijuana for the qualifying patient,

1 does not exceed six marijuana plants, which must be kept in
2 an enclosed, locked facility unless the plants are being
3 transported because the qualifying patient is moving or the
4 plants are being transported to the qualifying patient's
5 property.

6 2. A primary caregiver other than a nonprofit dispensary who
7 has been issued and possesses a registry identification card
8 shall not be subject to arrest, prosecution, or penalty in any
9 manner, or denied any right or privilege, including but not
10 limited to a civil penalty or disciplinary action by a business
11 or occupational or professional licensing board or bureau, for
12 assisting a qualifying patient to whom the primary caregiver is
13 connected through the department's registration process with
14 the medical use of marijuana in accordance with this chapter,
15 provided that the marijuana possessed by the primary caregiver:

16 a. Is not more than two and one-half ounces of usable
17 marijuana for each qualifying patient to whom the primary
18 caregiver is connected through the department's registration
19 process.

20 b. For each qualifying patient who has designated the
21 primary caregiver to cultivate marijuana for the qualifying
22 patient, does not exceed six marijuana plants, which must be
23 kept in an enclosed, locked facility unless the plants are
24 being transported because the primary caregiver is moving.

25 3. Any incidental amount of seeds, stalks, and unusable
26 roots shall be allowed and shall not be included in the amounts
27 specified in subsections 1 and 2.

28 4. a. There shall be a presumption that a qualifying
29 patient or primary caregiver is engaged in the medical use of
30 marijuana pursuant to this chapter if the qualifying patient or
31 primary caregiver does both of the following:

32 (1) Possesses a registry identification card.

33 (2) Possesses an amount of marijuana that does not exceed
34 the amount allowed under this chapter.

35 b. The presumption may be rebutted by evidence that

1 conduct related to marijuana use or possession was not for the
2 purpose of treating or alleviating the qualifying patient's
3 debilitating medical condition or symptoms associated with
4 the debilitating medical condition, in accordance with this
5 chapter.

6 5. A cardholder shall not be subject to arrest, prosecution,
7 or penalty in any manner, or denied any right or privilege,
8 including but not limited to civil penalty or disciplinary
9 action by a business or occupational or professional licensing
10 board or bureau, for giving an amount of marijuana the person
11 is allowed to possess under subsection 1 or 2 to a cardholder
12 for a registered qualifying patient's medical use where nothing
13 of value is transferred in return, or to offer to do the same.

14 6. A school, employer, or landlord shall not refuse to
15 enroll, employ, or lease to, or otherwise penalize, a person
16 solely on the basis of the person's status as a registered
17 qualifying patient or a registered primary caregiver, unless
18 failing to do so would put the school, employer, or landlord
19 in violation of federal law or cause the school, employer, or
20 landlord to lose a federal contract or funding.

21 7. A person shall not be denied custody or visitation of
22 a minor for acting in accordance with this chapter, unless
23 the person's behavior is such that it creates an unreasonable
24 danger to the minor that can be clearly articulated and
25 substantiated.

26 8. A registered primary caregiver may receive compensation
27 for costs associated with assisting a registered qualifying
28 patient's medical use of marijuana, provided that the
29 registered primary caregiver is connected to the registered
30 qualifying patient through the department's registration
31 process. Any such compensation shall not constitute the sale
32 of controlled substances.

33 9. A physician shall not be subject to arrest, prosecution,
34 or penalty in any manner, or denied any right or privilege,
35 including but not limited to a civil penalty or disciplinary

1 action by the board of medicine or by any other business or
2 occupational or professional licensing board or bureau, solely
3 for providing written certifications or for otherwise stating
4 that, in the physician's professional opinion, a patient is
5 likely to receive therapeutic benefit from the medical use of
6 marijuana to treat or alleviate the patient's debilitating
7 medical condition or symptoms associated with the debilitating
8 medical condition, provided that nothing shall prevent a
9 professional licensing board from sanctioning a physician for
10 failing to properly evaluate a patient's medical condition or
11 otherwise violating the standard of care for evaluating medical
12 conditions.

13 10. A person shall not be subject to arrest, prosecution,
14 or penalty in any manner, or denied any right or privilege,
15 including but not limited to a civil penalty or disciplinary
16 action by a business or occupational or professional licensing
17 board or bureau, for providing a registered qualifying patient
18 or a registered primary caregiver with marijuana paraphernalia
19 for purposes of a qualifying patient's medical use of
20 marijuana.

21 11. Any marijuana, marijuana paraphernalia, licit property,
22 or interest in licit property that is possessed, owned, or used
23 in connection with the medical use of marijuana, as allowed
24 under this chapter, or property incidental to such use, shall
25 not be seized or forfeited.

26 12. A person shall not be subject to arrest, prosecution,
27 or penalty in any manner, or denied any right or privilege,
28 including but not limited to a civil penalty or disciplinary
29 action by a business or occupational or professional licensing
30 board or bureau, simply for being in the presence or vicinity
31 of the medical use of marijuana as allowed under this chapter,
32 or for assisting a registered qualifying patient with using or
33 administering marijuana.

34 13. A registry identification card, or its equivalent, that
35 is issued under the laws of another state, district, territory,

1 commonwealth, or insular possession of the United States that
2 allows the medical use of marijuana by a visiting qualifying
3 patient, shall have the same force and effect as a registry
4 identification card issued by the department for purposes of
5 this chapter.

6 Sec. 9. NEW SECTION. 124D.4 Nonprofit dispensaries.

7 1. The department shall register and issue a registration
8 certificate to a nonprofit dispensary within thirty days of
9 receiving an application for registration of a nonprofit
10 dispensary if the prospective nonprofit dispensary provided all
11 of the following, in accordance with the department's rules:

12 a. An application fee of five thousand dollars.

13 b. The legal name of the nonprofit dispensary.

14 c. The physical address of the nonprofit dispensary and
15 the physical address of one additional location, if any, where
16 marijuana will be cultivated.

17 d. The name, address, and date of birth of each principal
18 officer and board member of the nonprofit dispensary.

19 e. The name, address, and date of birth of any person who is
20 an agent of or employed by the nonprofit dispensary.

21 2. The department shall track the number of registered
22 qualifying patients who designate a nonprofit dispensary as
23 a primary caregiver and issue to each nonprofit dispensary
24 a written statement of the number of qualifying patients
25 who have designated the nonprofit dispensary to cultivate
26 marijuana for them. This statement shall be updated each time
27 a registered qualifying patient newly designates the nonprofit
28 dispensary or ceases to designate the nonprofit dispensary and
29 may be transmitted electronically if the department's rules so
30 provide. The department may provide by rule that the updated
31 written statements may not be issued more frequently than once
32 each week.

33 3. Except as provided in subsection 4, the department shall
34 issue each principal officer, board member, agent, or employee
35 of a nonprofit dispensary a registry identification card within

1 ten days of receipt of the person's name, address, date of
2 birth, and a fee in an amount established by the department.
3 Each registry identification card shall specify that the
4 cardholder is a principal officer, board member, agent, or
5 employee of a nonprofit dispensary and shall contain all of the
6 following information:

7 *a.* The name, address, and date of birth of the principal
8 officer, board member, agent, or employee.

9 *b.* The legal name of the nonprofit dispensary with which
10 the principal officer, board member, agent, or employee is
11 affiliated.

12 *c.* A random identification number that is unique to the
13 cardholder.

14 *d.* The date of issuance and expiration date of the registry
15 identification card.

16 *e.* A photograph, if the department requires inclusion of a
17 photograph by rule.

18 4. The department shall not issue a registry identification
19 card to any principal officer, board member, agent, or employee
20 of a nonprofit dispensary who has been convicted of a felony
21 drug offense. The department may conduct a background check
22 of each principal officer, board member, agent, or employee
23 in order to carry out this subsection. The department shall
24 notify the nonprofit dispensary in writing of the reason for
25 denying the registry identification card.

26 5. *a.* A nonprofit dispensary registration certificate and
27 the registry identification card for each principal officer,
28 board member, agent, or employee shall expire one year after
29 the date of issuance. The department shall issue a renewal
30 nonprofit dispensary registration certificate or renewal
31 registry identification card within ten days to any person who
32 complies with the requirements in subsection 3.

33 *b.* A registry identification card of a principal officer,
34 board member, agent, or employee shall expire ten days after
35 notification by a nonprofit dispensary that such person ceases

1 to work at the nonprofit dispensary.

2 6. A nonprofit dispensary is subject to reasonable
3 inspection by the department. The department shall give
4 reasonable notice of an inspection.

5 7. *a.* A nonprofit dispensary shall be operated on a
6 not-for-profit basis for the mutual benefit of its members
7 and patrons. The bylaws of a nonprofit dispensary and its
8 contracts with patrons shall contain such provisions relative
9 to the disposition of revenues and receipts as may be necessary
10 and appropriate to establish and maintain its not-for-profit
11 status. However, a nonprofit dispensary need not be recognized
12 as tax-exempt by the federal internal revenue service and is
13 not required to incorporate pursuant to chapter 504.

14 *b.* A nonprofit dispensary shall notify the department within
15 ten days of when a principal officer, board member, agent, or
16 employee ceases to work at the nonprofit dispensary.

17 *c.* A nonprofit dispensary shall notify the department in
18 writing of the name, address, and date of birth of any new
19 principal officer, board member, agent, or employee and shall
20 submit a fee in an amount established by the department for
21 a new registry identification card before the new principal
22 officer, board member, agent, or employee begins working at the
23 nonprofit dispensary.

24 *d.* A nonprofit dispensary shall implement appropriate
25 security measures to deter and prevent unauthorized entrance
26 into areas containing marijuana and the theft of marijuana.

27 *e.* The operating documents of a nonprofit dispensary
28 shall include procedures for the oversight of the nonprofit
29 dispensary and procedures to ensure accurate recordkeeping.

30 *f.* A nonprofit dispensary is prohibited from acquiring,
31 possessing, cultivating, manufacturing, delivering,
32 transferring, transporting, supplying, or dispensing marijuana
33 for any purpose except to assist registered qualifying patients
34 with the medical use of marijuana directly or through the
35 qualifying patients' other primary caregivers.

1 *g.* All principal officers and board members of a nonprofit
2 dispensary shall be residents of the state of Iowa.

3 *h.* All cultivation of marijuana shall take place in an
4 enclosed, locked facility.

5 *i.* A nonprofit dispensary shall not be located within
6 five hundred feet of the property line of a public or private
7 school.

8 8. A nonprofit dispensary or a principal officer, board
9 member, agent, or employee of a nonprofit dispensary shall not
10 dispense more than two and one-half ounces of usable marijuana
11 to a qualifying patient or to a primary caregiver on behalf of
12 a qualifying patient during a fifteen-day period.

13 9. *a.* A nonprofit dispensary shall not be subject to
14 prosecution, search, seizure, or penalty, or be denied any
15 right or privilege, including but not limited to a civil
16 penalty or disciplinary action by a business, occupational, or
17 licensing board or entity, solely for acting in accordance with
18 this chapter to provide usable marijuana or to otherwise assist
19 registered qualifying patients connected with the nonprofit
20 dispensary with the medical use of marijuana.

21 *b.* A principal officer, board member, agent, or employee
22 of a registered nonprofit dispensary shall not be subject
23 to arrest, prosecution, search, seizure, or penalty in any
24 manner or denied any right or privilege, including but not
25 limited to a civil penalty or disciplinary action by a court or
26 occupational or professional licensing board or entity, solely
27 for acting in accordance with this chapter and department rules
28 to acquire, possess, cultivate, manufacture, deliver, transfer,
29 transport, supply, or dispense marijuana or related supplies
30 and educational materials to registered qualifying patients,
31 to registered primary caregivers on behalf of registered
32 qualifying patients, or to other nonprofit dispensaries.

33 10. *a.* A nonprofit dispensary shall not possess more
34 than six live marijuana plants for each registered qualifying
35 patient who has designated the nonprofit dispensary as a

1 primary caregiver and has designated that the nonprofit
2 dispensary will be permitted to cultivate marijuana for the
3 registered qualifying patient's medical use.

4 *b.* A principal officer, board member, employee, or agent
5 of a nonprofit dispensary shall not dispense, deliver,
6 or otherwise transfer marijuana to a person other than a
7 qualifying patient who has designated the nonprofit dispensary
8 as a primary caregiver.

9 *c.* The department shall immediately revoke the registry
10 identification card of a principal officer, board member,
11 employee, or agent of a nonprofit dispensary who is found to
12 be in violation of paragraph "b", and such a person shall be
13 disqualified from serving as a principal officer, board member,
14 agent, or employee of a nonprofit dispensary.

15 *d.* Except as otherwise provided, a person who has been
16 convicted of an offense that was classified as a felony in
17 the jurisdiction where the person was convicted shall not be
18 eligible to be a principal officer, board member, agent, or
19 employee of a nonprofit dispensary.

20 (1) A person who is a principal officer, board member,
21 agent, or employee of a nonprofit dispensary in violation of
22 this lettered paragraph "d" is subject to a civil penalty of up
23 to one thousand dollars.

24 (2) A person who is a principal officer, board member,
25 agent, or employee of a nonprofit dispensary in violation
26 of this lettered paragraph "d" and who, at the time of the
27 violation, has been previously found to have been in violation
28 of this lettered paragraph "d" commits a class "D" felony.

29 *e.* A nonprofit dispensary shall not acquire usable marijuana
30 or mature marijuana plants except through the cultivation of
31 marijuana by that nonprofit dispensary.

32 **Sec. 10. NEW SECTION. 124D.5 Departmental rules.**

33 1. Not later than one hundred twenty days after the
34 effective date of this Act, the department shall adopt rules to
35 carry out the purposes of this chapter.

1 2. Not later than one hundred twenty days after the
2 effective date of this Act, the department shall adopt
3 rules that govern the manner in which the department shall
4 consider petitions from the public to add medical conditions
5 or treatments to the list of debilitating medical conditions
6 set forth in section 124D.2, subsection 2. In considering
7 such petitions, the department shall include public notice
8 of, and an opportunity to comment in, a public hearing upon
9 such petitions. The department shall, after hearing, approve
10 or deny such petitions within one hundred eighty days of
11 their submission. The approval or denial of such a petition
12 constitutes final agency action, subject to judicial review.

13 3. Not later than one hundred twenty days after the
14 effective date of this Act, the department shall adopt rules
15 governing the manner in which it considers applications for and
16 renewals of registry identification cards. The department's
17 rules must establish application and renewal fees that generate
18 revenues sufficient to offset all expenses of implementing
19 and administering this chapter. The department may establish
20 a sliding scale of application and renewal fees based upon
21 a qualifying patient's income. The department may accept
22 donations from private sources to reduce application and
23 renewal fees.

24 **Sec. 11. NEW SECTION. 124D.6 Registry identification cards**
25 **— application — fee — penalty.**

26 1. The department shall issue a registry identification
27 card to a qualifying patient who submits an application
28 containing all of the following:

29 a. A written certification.

30 b. An application or renewal fee.

31 c. The name, address, and date of birth of the qualifying
32 patient except that if the applicant is homeless, no address
33 is required.

34 d. The name, address, and telephone number of the qualifying
35 patient's physician.

1 e. The name, address, and date of birth of each primary
2 caregiver, if any, of the qualifying patient. A qualifying
3 patient may designate only one primary caregiver unless
4 the qualifying patient is under eighteen years of age and
5 requires a parent to serve as a primary caregiver or the
6 qualifying patient designates a nonprofit dispensary to
7 cultivate marijuana for the qualifying patient's medical use
8 and the qualifying patient requests the assistance of a second
9 caregiver to assist with the qualifying patient's medical use.

10 f. If the qualifying patient designates one or more primary
11 caregivers, a designation as to who will be allowed under state
12 law to cultivate marijuana plants for the qualifying patient's
13 medical use. Only one person may be allowed to cultivate
14 marijuana plants for a qualifying patient.

15 2. The department shall not issue a registry identification
16 card to a qualifying patient who is under the age of eighteen
17 unless all of the following requirements are met:

18 a. The qualifying patient's physician has explained the
19 potential risks and benefits of the medical use of marijuana
20 to the qualifying patient and to a parent, guardian, or legal
21 custodian of the qualifying patient.

22 b. The parent, guardian, or person having legal custody
23 consents in writing to all of the following:

24 (1) Allowing the qualifying patient's medical use of
25 marijuana.

26 (2) Serving as the qualifying patient's primary caregiver.

27 (3) Controlling the acquisition of the marijuana, the
28 dosage, and the frequency of the medical use of marijuana by
29 the qualifying patient.

30 3. The department shall verify the information contained
31 in an application or renewal application submitted pursuant
32 to this section, and shall approve or deny an application
33 or renewal application within thirty days of receiving the
34 application or renewal application. The department may deny
35 an application or a renewal application only if the applicant

1 fails to provide the information required pursuant to this
2 section, or the department determines that the information
3 provided was falsified. Rejection of an application or a
4 renewal application is considered a final agency action subject
5 to judicial review pursuant to chapter 17A.

6 4. The department shall issue a registry identification
7 card to the primary caregiver, if any, who is named in
8 a qualifying patient's approved application or renewal
9 application, up to a maximum of one primary caregiver per
10 qualifying patient, provided the primary caregiver meets the
11 requirements of section 124D.2, subsection 10.

12 5. The department shall issue a registry identification
13 card to a qualifying patient and to the primary caregiver
14 within five days of approving an application or a renewal
15 application, which shall expire one year after the date of
16 issuance. A registry identification card shall contain all of
17 the following:

18 a. The name, address, and date of birth of the qualifying
19 patient.

20 b. The name, address, and date of birth of the primary
21 caregiver, if any, of the qualifying patient.

22 c. The date of issuance and expiration date of the registry
23 identification card.

24 d. A random identification number.

25 e. A photograph, if the department requires a photograph.

26 f. A clear designation indicating whether the cardholder
27 shall be allowed under law to cultivate marijuana plants for
28 the qualifying patient's medical use, to be determined based
29 upon the qualifying patient's preference.

30 6. a. A registered qualifying patient shall notify the
31 department of any change in the registered qualifying patient's
32 name, address, or primary caregiver, preference regarding who
33 may cultivate marijuana for the registered qualifying patient,
34 or if the registered qualifying patient ceases to have a
35 debilitating medical condition, within ten days of such change.

1 *b.* A registered qualifying patient who fails to notify the
2 department of any of the changes in paragraph "a" is subject
3 to a civil penalty of up to one hundred fifty dollars. If
4 the registered qualifying patient's certifying physician
5 notifies the department in writing that the registered
6 qualifying patient no longer suffers from a debilitating
7 medical condition, the registered qualifying patient's registry
8 identification card shall become void upon notification by the
9 department to the qualifying patient.

10 *c.* A registered primary caregiver shall notify the
11 department of any change in the registered primary caregiver's
12 name or address within ten days of such change. A registered
13 primary caregiver who fails to notify the department of such
14 change is subject to a civil penalty of up to one hundred fifty
15 dollars.

16 *d.* When a registered qualifying patient or registered
17 primary caregiver notifies the department of any changes
18 listed in this subsection and submits a fee of ten dollars,
19 the department shall issue the cardholder a new registry
20 identification card within ten days of receiving the updated
21 information.

22 *e.* When a registered qualifying patient changes the
23 registered qualifying patient's registered primary caregiver,
24 the department shall notify the primary caregiver within
25 ten days. The registered primary caregiver's protections
26 as provided in this chapter shall expire ten days after
27 notification by the department.

28 *f.* If a cardholder loses the cardholder's registry
29 identification card, the cardholder shall notify the department
30 and submit a fee of ten dollars within ten days of losing the
31 card. Within five days after such notification, the department
32 shall issue a new registry identification card with a new
33 random identification number to the cardholder.

34 7. Possession of, or application for, a registry
35 identification card shall not constitute probable cause or

1 reasonable suspicion and shall not be used to support the
2 search of the person or property of the person possessing or
3 applying for the registry identification card. The possession
4 of or application for a registry identification card does not
5 prevent the issuance of a warrant if probable cause exists on
6 other grounds.

7 8. The following confidentiality rules shall apply:

8 a. Applications and supporting information submitted by
9 a qualifying patient, including information regarding the
10 qualifying patient's primary caregiver and physician, are
11 confidential.

12 b. Applications and supporting information submitted by a
13 primary caregiver operating in compliance with this chapter,
14 including the physical address of a nonprofit dispensary, are
15 confidential.

16 c. The department shall maintain a confidential list
17 of the persons to whom the department has issued registry
18 identification cards. Individual names and other identifying
19 information on the list shall be confidential and not subject
20 to disclosure, except to authorized employees of the department
21 as necessary to perform official duties of the department.

22 d. The department shall verify to law enforcement personnel
23 whether a registry identification card is valid without
24 disclosing more information than is reasonably necessary to
25 verify the authenticity of the registry identification card.

26 e. (1) A person, including an employee or official of the
27 department or another state agency or local government, who
28 breaches the confidentiality of information obtained pursuant
29 to this chapter commits a serious misdemeanor punishable by
30 imprisonment of up to one hundred days and a fine of up to one
31 thousand dollars.

32 (2) Notwithstanding this lettered paragraph "e", department
33 employees may notify law enforcement about falsified or
34 fraudulent information submitted to the department, if the
35 employee who suspects that falsified or fraudulent information

1 has been submitted confers with the employee's supervisor
2 and the employee and the employee's supervisor agree that
3 circumstances exist that warrant reporting.

4 9. A cardholder who sells marijuana to a person who is not
5 allowed to possess marijuana for medical purposes under this
6 chapter shall have the cardholder's registry identification
7 card revoked and is subject to any other penalties for the
8 sale of marijuana. The department shall revoke the registry
9 identification card of any cardholder who violates this chapter
10 and the cardholder is subject to any other penalties for the
11 violation.

12 10. The department shall submit an annual report to
13 the general assembly by January 15 of each year that does
14 not disclose any identifying information about cardholders
15 or physicians, but does contain, at a minimum, all of the
16 following information:

17 a. The number of applications and renewal applications
18 submitted for registry identification cards.

19 b. The number of registered qualifying patients and
20 registered primary caregivers in each county.

21 c. The nature of the debilitating medical conditions of the
22 qualifying patients.

23 d. The number of registry identification cards revoked.

24 e. The number of physicians providing written certifications
25 for qualifying patients.

26 f. The number of registered nonprofit dispensaries.

27 g. The number of principal officers, board members,
28 employees, and agents of nonprofit dispensaries.

29 11. The application for a qualifying patient's registry
30 identification card shall include a question on whether the
31 patient would like the department to notify the patient about
32 any clinical studies regarding marijuana's risks or efficacy
33 that seek human subjects.

34 Sec. 12. NEW SECTION. 124D.7 **Scope of chapter.**

35 1. This chapter does not permit any person to do any of the

1 following:

2 *a.* Undertake any task under the influence of marijuana,
3 when doing so would constitute negligence or professional
4 malpractice.

5 *b.* Possess marijuana, or otherwise engage in the medical use
6 of marijuana, in any of the following places:

7 (1) In a school bus.

8 (2) On the grounds of any preschool or primary or secondary
9 school.

10 (3) In any correctional facility.

11 *c.* Smoke marijuana in any of the following:

12 (1) Any form of public transportation.

13 (2) Any public place.

14 *d.* Operate, navigate, or be in actual physical control
15 of any motor vehicle, aircraft, or motorboat while under the
16 influence of marijuana.

17 *e.* Use marijuana if that person does not have a debilitating
18 medical condition.

19 2. Nothing in this chapter shall be construed to require any
20 of the following:

21 *a.* A government medical assistance program or private health
22 insurer to reimburse a person for costs associated with the
23 medical use of marijuana.

24 *b.* An employer to accommodate the ingestion of marijuana in
25 any workplace or any employee working while under the influence
26 of marijuana.

27 3. Fraudulent representation to a law enforcement official
28 of any fact or circumstance relating to the medical use
29 of marijuana to avoid arrest or prosecution is a simple
30 misdemeanor, punishable by a fine of five hundred dollars,
31 in addition to any other penalties that may apply for making
32 a false statement or for the use of marijuana other than use
33 undertaken pursuant to this chapter.

34 Sec. 13. NEW SECTION. 124D.8 Affirmative defenses —
35 dismissal.

1 1. Except as provided in section 124D.7, a qualifying
2 patient and a qualifying patient's primary caregiver, other
3 than a nonprofit dispensary, may assert the medical purpose for
4 using marijuana as a defense to any prosecution of an offense
5 involving marijuana intended for the patient's medical use, and
6 this defense shall be presumed valid where the evidence shows
7 all of the following:

8 a. A physician has stated that, in the physician's
9 professional opinion, after having completed a full assessment
10 of the patient's medical history and current medical
11 condition made in the course of a bona fide physician-patient
12 relationship, the qualifying patient is likely to receive
13 therapeutic or palliative benefit from the medical use of
14 marijuana to treat or alleviate the qualifying patient's
15 debilitating medical condition or symptoms associated with the
16 qualifying patient's debilitating medical condition.

17 b. The qualifying patient and the qualifying patient's
18 primary caregiver, if any, were collectively in possession of
19 a quantity of marijuana that was not more than was reasonably
20 necessary to ensure the uninterrupted availability of marijuana
21 for the purpose of treating or alleviating the qualifying
22 patient's debilitating medical condition or symptoms associated
23 with the qualifying patient's debilitating medical condition.

24 c. The qualifying patient and the qualifying patient's
25 primary caregiver were engaged in the acquisition, possession,
26 cultivation, manufacture, use, delivery, transfer, or
27 transportation of marijuana or paraphernalia relating to the
28 administration of marijuana solely to treat or alleviate the
29 qualifying patient's debilitating medical condition or symptoms
30 associated with the qualifying patient's debilitating medical
31 condition.

32 2. A person may assert the medical purpose for using
33 marijuana in a motion to dismiss and the charges shall be
34 dismissed following an evidentiary hearing where the person
35 shows all of the elements listed in subsection 1.

1 3. If a qualifying patient or a patient's primary caregiver
2 demonstrates the qualifying patient's medical purpose for using
3 marijuana pursuant to this section, the qualifying patient and
4 the patient's primary caregiver shall not be subject to any of
5 the following for the qualifying patient's use of marijuana for
6 medical purposes:

7 a. Disciplinary action by a business or occupational or
8 professional licensing board or bureau.

9 b. Forfeiture of any interest in or right to nonmarijuana,
10 licit property.

11 Sec. 14. NEW SECTION. 124D.9 Enforcement.

12 1. If the department fails to adopt rules to implement the
13 requirements of this chapter within one hundred twenty days
14 of the effective date of this Act, a qualifying patient may
15 commence an action in district court to compel the department
16 to perform the department's duties pursuant to this chapter.

17 2. If the department fails to issue a valid registry
18 identification card or a registration certificate in response
19 to a valid application or renewal application submitted
20 pursuant to this chapter within forty-five days of its
21 submission, the registry identification card or registration
22 certificate is deemed granted, and a copy of the registry
23 identification card application or renewal application is
24 deemed a valid registry identification card.

25 3. If at any time after January 1, 2014, the department
26 is not accepting applications pursuant to this chapter,
27 including if it has not promulgated rules allowing qualifying
28 patients to submit applications, a notarized statement by a
29 qualifying patient containing the information required in
30 an application, pursuant to section 124D.6, together with
31 a written certification, shall be deemed a valid registry
32 identification card.

33 Sec. 15. Section 453B.6, Code 2013, is amended by adding the
34 following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. A person who is in possession

1 of marijuana for medical purposes in accordance with chapter
2 124D is in lawful possession of a taxable substance and is not
3 subject to the requirements of this chapter.

4

EXPLANATION

5 This bill relates to marijuana, including the creation of
6 a medical marijuana Act, and provides for civil and criminal
7 penalties and fees.

8 MARIJUANA CLASSIFICATION. The bill reclassifies marijuana
9 as a schedule II controlled substance instead of a schedule I
10 controlled substance and strikes references to the authority of
11 the board of pharmacy to adopt rules for the use of marijuana
12 or tetrahydrocannabinols for medicinal purposes. A schedule I
13 controlled substance is a highly addictive substance that has
14 no accepted medical use in the United States and a schedule
15 II controlled substance is a highly addictive substance
16 that has an accepted medical use in the United States. The
17 reclassification of marijuana from a schedule I controlled
18 substance to a schedule II controlled substance allows a
19 physician to issue a prescription for marijuana.

20 It is a class "C" felony pursuant to Code section 124.401,
21 subsection 1, paragraph "c", subparagraph (8), for any
22 unauthorized person to violate a provision of Code section
23 124.401 involving a classified substance placed on schedule
24 I, II, or III pursuant to the bill. The penalties remain
25 unchanged for marijuana under the bill. The penalties under
26 Code section 124.401 range from a class "B" felony punishable
27 by up to 50 years of confinement to a serious misdemeanor
28 punishable by up to six months of confinement depending on the
29 amount of marijuana involved in the offense.

30 MEDICAL MARIJUANA ACT. The bill establishes new Code
31 chapter 124D, the medical marijuana Act, relating to the
32 possession and use of marijuana for therapeutic purposes,
33 provides for the creation of nonprofit dispensaries, and
34 provides for civil and criminal penalties and fees.

35 The bill provides that a qualifying patient who has been

1 issued and possesses a registry identification card shall not
2 be subject to arrest, prosecution, or civil penalty, or denied
3 any right or privilege, for the qualifying patient's medical
4 use of marijuana pursuant to the provisions of the bill.

5 The bill defines a qualifying patient as a person who has
6 been diagnosed by a physician with a debilitating medical
7 condition defined as cancer, glaucoma, positive status for
8 human immunodeficiency virus, acquired immune deficiency
9 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
10 disease, agitation of Alzheimer's disease, nail patella,
11 a chronic or debilitating disease or medical condition or
12 its treatment that produces intractable pain, a chronic or
13 debilitating medical condition that produces one or more of
14 the following: cachexia or wasting syndrome, severe nausea,
15 certain seizures, or certain muscle spasms, or any other
16 medical condition or its treatment approved by the department
17 of public health (department). A primary caregiver is defined
18 as a person, 21 or older, who has agreed to assist with a
19 qualifying patient's medical use of marijuana who has never
20 been convicted of a felony drug offense. A primary caregiver
21 also includes a nonprofit dispensary. A physician is defined
22 as a physician or surgeon or osteopathic physician or surgeon
23 licensed under Code chapter 148.

24 The bill provides for the creation of nonprofit
25 dispensaries. The bill defines a nonprofit dispensary as
26 a not-for-profit organization registered by the department
27 that acquires, possesses, cultivates, manufactures, delivers,
28 transfers, transports, sells, supplies, or dispenses marijuana
29 or related supplies and educational materials to qualifying
30 patients and primary caregivers who possess a valid registry
31 identification card. The bill provides specific guidelines for
32 regulation of nonprofit dispensaries and principal officers,
33 board members, employees, or agents of a nonprofit dispensary
34 by the department. A person who has been convicted of a felony
35 offense shall not be eligible to be a principal officer, board

1 member, agent, or employee of a nonprofit dispensary, unless
2 otherwise permitted by the department. A first violation
3 of this provision is punishable by a civil penalty of up to
4 \$1,000. A subsequent violation is a class "D" felony.

5 The bill provides that the department shall adopt rules
6 for implementing the bill including rules relating to the
7 consideration of petitions from the public to add additional
8 debilitating medical conditions to the list of debilitating
9 medical conditions specified in the bill, rules relating
10 to applications and renewal applications for registry
11 identification cards issued to qualifying patients and primary
12 caregivers, and rules relating to registration certificates for
13 nonprofit dispensaries. The department shall establish fees
14 which shall meet certain requirements.

15 The bill provides that the department shall issue a
16 registry identification card to a qualifying patient who
17 submits certain specified information to the department. The
18 department shall not issue a registry identification card to
19 a qualifying patient who is under the age of 18 unless the
20 qualifying patient's physician has explained the potential
21 risks and benefits of the medical use of marijuana to the
22 qualifying patient and to the qualifying patient's parent,
23 guardian, or legal representative and such persons provide
24 the appropriate consent. The department shall also issue a
25 registry identification card to each primary caregiver named
26 in a qualifying patient's approved application for a registry
27 identification card, up to a maximum of one primary caregiver
28 per qualifying patient. The bill places restrictions on the
29 amount of marijuana that may be possessed by a qualifying
30 patient or a primary caregiver and on the persons authorized
31 to cultivate marijuana for a qualifying patient. The bill
32 requires the department to submit an annual report to the
33 general assembly by January 15 of each year concerning
34 information related to registry identification cards.

35 The bill provides that a registered qualifying patient or

1 a registered primary caregiver who loses their registration
2 identification card or who makes changes to certain information
3 relevant to their registration identification card shall
4 notify the department. A registered qualifying patient or a
5 registered primary caregiver who fails to notify the department
6 of any changes in information relevant to the registration
7 identification card is subject to a civil penalty of up to
8 \$150.

9 The bill provides that applications and supporting
10 information submitted by a qualifying patient, primary
11 caregiver, physician, nonprofit dispensary, or board member,
12 employee, or agent of a nonprofit dispensary, are confidential.
13 The bill also provides that a person, including an employee or
14 official of the department or another state or local agency,
15 who disseminates information received in connection with an
16 application for a registry identification card pursuant to the
17 bill, is guilty of a serious misdemeanor and is subject to
18 confinement in jail for up to 100 days and a fine of \$1,000.

19 The bill prohibits the possession and use of medical
20 marijuana in certain places and during certain activities.
21 The bill provides that any fraudulent representation to a law
22 enforcement official relating to the use of medical marijuana
23 is a simple misdemeanor, punishable by a fine of up to \$500.

24 The bill amends Code section 124.401, relating to prohibited
25 acts involving controlled substances, to provide that it is
26 lawful for a person to knowingly or intentionally possess
27 marijuana if the possession is in accordance with the
28 provisions of the bill. The bill also amends Code section
29 453B.6, relating to tax stamps for controlled substances, to
30 specify that possession in accordance with the provisions of
31 the bill is lawful possession and a tax stamp is not required.