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SENATE FILE 2076
BY SZYMONIAK

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the use of marijuana for therapeutic purposes
2 and establishing a marijuana therapeutic research program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2076 HUMAN RESOURCES

1 Section 1. Section 124.401, subsection 5, Code Supplement
2 1999, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. It is lawful for a person to
5 knowingly or intentionally possess marijuana if the possession
6 is in accordance with the provisions of section 124.401G or
7 124.511.

8 Sec. 2. NEW SECTION. 124.401G MARIJUANA FOR THERAPEUTIC
9 PURPOSES.

10 Notwithstanding other provisions of law to the contrary,
11 the following provisions apply to possession of marijuana for
12 therapeutic purposes in accordance with this section or
13 section 124.511.

14 1. It is lawful for a person who is eighteen years of age
15 or older to knowingly or intentionally possess marijuana if
16 any of the following circumstances exist:

17 a. The person possessing the marijuana was diagnosed by a
18 physician as having glaucoma before the person was alleged to
19 unlawfully possess the marijuana.

20 b. The person possessing the marijuana is being treated
21 with chemotherapy or radiation therapy and has suffered from
22 significant nausea or vomiting as a result of the treatment.

23 c. The person possessing the marijuana was diagnosed by a
24 physician as having multiple sclerosis, hyperparathyroidism,
25 nail patella syndrome, or acquired immune deficiency syndrome,
26 and having symptoms of pain or spasms due to the diagnosed
27 condition, before the person was alleged to unlawfully possess
28 the marijuana.

29 d. The person possessing the marijuana has obtained the
30 marijuana from a licensed physician or surgeon, osteopath,
31 osteopathic physician or surgeon, or pharmacist and the
32 marijuana is dispensed in accordance with section 147.107.

33 2. Possession of marijuana in accordance with this section
34 or section 124.511 is an affirmative defense to a prosecution
35 for possession of marijuana.

1 3. A person who possesses marijuana in accordance with
2 this section or section 124.511 is not subject to the
3 provisions of chapter 809 and 809A, relating to seizable and
4 forfeitable property, based upon that possession.

5 Sec. 3. Section 124.506, subsection 2, Code 1999, is
6 amended to read as follows:

7 2. Upon written application by the board, the court by
8 whom the forfeiture of controlled substances has been decreed
9 may order the delivery of any of them, except controlled
10 substances listed in schedule I, to the board for distribution
11 or destruction, as provided by this section or section
12 124.511.

13 Sec. 4. NEW SECTION. 124.511 MARIJUANA THERAPEUTIC
14 RESEARCH PROGRAM.

15 1. The general assembly finds that research has indicated
16 that the use of marijuana may alleviate nausea and other side
17 effects of chemotherapy and radiation therapy as well as some
18 symptoms of glaucoma and other conditions with symptoms of
19 pain, stress, spasms, nausea, or loss of appetite. The
20 general assembly finds that further research and strictly
21 controlled experimentation regarding the therapeutic uses of
22 marijuana is necessary and desirable. The purpose of this
23 section is to encourage this research and experimentation.

24 2. As used in this section, unless the context otherwise
25 requires, "program" means the marijuana therapeutic research
26 program established in this section.

27 3. A marijuana therapeutic research program is established
28 under the board. The board shall adopt rules for the proper
29 administration of the program. In adopting rules, the board
30 shall consider pertinent rules adopted by the United States
31 drug enforcement agency, United States food and drug
32 administration, national institute on drug abuse, and any
33 other applicable federal agency.

34 4. The board shall contract with the national institute on
35 drug abuse for the receipt of marijuana under pertinent rules

1 adopted by the national institute on drug abuse, the United
2 States food and drug administration, and the United States
3 drug enforcement administration. However, if within a
4 reasonable period of time, the board is unable to complete a
5 contract with the national institute on drug abuse, the board
6 shall apply to the court for delivery of marijuana under
7 section 124.506. The board may receive the confiscated
8 marijuana and shall distribute it in accordance with this
9 section. Any marijuana received under this subsection shall
10 be made free of impurities and analyzed for potency by the
11 board.

12 5. The board shall deliver marijuana received under
13 subsection 4 to appropriate licensed pharmacists designated by
14 the board. Any marijuana delivered to a pharmacist shall only
15 be distributed to a patient pursuant to a written prescription
16 of a licensed physician who is approved by the participation
17 review committee established by this section. A pharmacist
18 designated by the board is not liable, except for intentional
19 misconduct or gross negligence, in any civil action related to
20 marijuana distributed to a patient in accordance with this
21 section.

22 6. A participation review committee is established and
23 staffing for the committee shall be provided by the board.
24 The membership of the committee shall consist of three members
25 appointed as follows: a registered pharmacist appointed by
26 the board of pharmacy examiners, a licensed physician who is
27 board certified in ophthalmology or otorhinolaryngology
28 appointed by the board of medical examiners, and a licensed
29 physician who is board certified in internal medicine with a
30 subspecialty certification in medical oncology appointed by
31 the board of medical examiners. Committee members shall serve
32 at the pleasure of the appointing authority and are eligible
33 for payment of per diem and reimbursement of actual and
34 necessary expenses incurred while performing official duties.
35 The committee shall have authority to review and approve

1 physician applications to participate in the program. The
2 committee meetings to review applications shall be closed in
3 the same manner as a meeting to discuss the contents of a
4 licensing examination in accordance with section 21.5,
5 subsection 1, paragraph "d". Applicants must submit a twenty-
6 five dollar fee with the application.

7 7. A physician approved by the participation review
8 committee for participation in the program is authorized to
9 prescribe marijuana for a patient under any of the following
10 circumstances:

11 a. The patient is diagnosed as having glaucoma by the
12 physician.

13 b. The patient is being treated with chemotherapy or
14 radiation therapy and has suffered from significant nausea or
15 vomiting as a result of the treatment.

16 c. The patient is diagnosed by a physician as having
17 multiple sclerosis, hyperparathyroidism, nail patella
18 syndrome, acquired immune deficiency syndrome, or other
19 condition with symptoms of pain or spasms.

20 8. A physician approved by the participation review
21 committee for participation in the program is expressly
22 authorized to prescribe marijuana. A patient for whom
23 marijuana is prescribed by a physician approved to participate
24 in the program is expressly authorized to possess marijuana.
25 A registered pharmacist designated by the board under this
26 section is expressly authorized to possess and distribute
27 marijuana under this section.

28 9. Only the following persons shall have access to the
29 name and other identifying characteristics of a patient for
30 whom marijuana is prescribed under this section:

31 a. The board.

32 b. The attorney general or a designee of the attorney
33 general.

34 c. A person directly connected with the program who has a
35 legitimate need for the information.

1 d. A person for whom access has been specifically
2 authorized by that patient.

3 10. The board and the participation review committee shall
4 annually report findings and recommendations concerning the
5 program to the governor and the general assembly.

6 Sec. 5. Section 453B.6, Code 1999, is amended by adding
7 the following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. A person who is in possession of
9 marijuana for medical purposes in accordance with section
10 124.401G or 124.511 is in lawful possession of a taxable
11 substance and is not subject to the requirements of this
12 chapter.

13 EXPLANATION

14 This bill relates to the use of marijuana for therapeutic
15 purposes by expressly authorizing its use for certain medical
16 conditions and establishing a marijuana therapeutic research
17 program.

18 Code section 124.401, relating to prohibited acts involving
19 controlled substances, is amended to provide that it is lawful
20 to knowingly possess marijuana if the possession is in
21 accordance with the provisions of the bill.

22 New Code section 124.401G authorizes adult persons to
23 possess marijuana under any of the following circumstances:
24 the person was diagnosed as having glaucoma before being
25 charged with unlawful possession; the person is being treated
26 with chemotherapy or radiation therapy and has suffered from
27 significant nausea or vomiting due to that treatment; the
28 person was diagnosed as having any of the following illnesses:
29 multiple sclerosis, hyperparathyroidism, nail patella
30 syndrome, or acquired immune deficiency syndrome, and as
31 having pain or spasms due to the illness; or the person
32 obtained the marijuana in accordance with a legal
33 prescription. Possession in accordance with the bill's
34 requirements is an affirmative defense to prosecution for
35 possession of marijuana and such possession is not subject to

1 Code chapter 809 and 809A, relating to seizable and
2 forfeitable property.

3 Code section 124.506, relating to disposal of controlled
4 substances, is amended to allow the board of pharmacy
5 examiners to apply to the court to take possession of
6 confiscated controlled substances, except those listed in
7 schedule I. Upon taking possession, the board may either
8 destroy the drugs or utilize them in the marijuana therapeutic
9 research program.

10 The therapeutic research program is created in new Code
11 section 124.511. The bill includes legislative findings as to
12 the need for the program. The program is to be administered
13 by the board of pharmacy examiners. The board is to consult
14 with various federal bodies in implementing the program and to
15 enter into a contract to receive illegal drugs from the
16 national institute on drug abuse. If unable to contract
17 within a reasonable period, the board is to apply to the court
18 to receive confiscated drugs. The board is to establish a
19 participation review committee to review and approve physician
20 applications to participate in the program. Approved
21 physicians may legally prescribe the drug for the illnesses
22 and medical conditions specified in the bill. Physicians,
23 pharmacists, and patients participating in the program are
24 expressly authorized to prescribe, dispense, and possess
25 marijuana. The bill contains provisions to address
26 confidentiality. The board and the committee are to report
27 annually to the governor and general assembly.

28 Code section 453B.6, relating to tax stamps for controlled
29 substances, is amended to specify that possession in
30 accordance with the bill is lawful possession and a tax stamp
31 is not required.

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