

SENATE FILE 234  
BY BOLKCOM, HATCH, and DVORSKY

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 234  
HUMAN RESOURCES

1 Section 1. Section 124.401, subsection 5, Code 2003, is  
2 amended by adding the following new unnumbered paragraph:

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

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

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

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

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

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

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

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

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

35 3. A person who possesses marijuana in accordance with

1 this section or section 124.511 is not subject to the  
2 provisions of chapters 809 and 809A, relating to seizable and  
3 forfeitable property, based upon that possession.

4 Sec. 3. Section 124.506, subsection 2, Code 2003, is  
5 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 a. The board.

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

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

35 d. A person for whom access has been specifically

1 authorized by that patient.

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

5 Sec. 5. Section 453B.6, Code 2003, is amended by adding  
6 the following new unnumbered paragraph:

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

12 EXPLANATION

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

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

21 New Code section 124.401G authorizes adult persons to  
22 possess marijuana under any of the following circumstances:  
23 the person was diagnosed as having glaucoma before being  
24 charged with unlawful possession; the person is being treated  
25 with chemotherapy or radiation therapy and has suffered from  
26 significant nausea or vomiting due to that treatment; the  
27 person was diagnosed as having any of the following illnesses:  
28 multiple sclerosis, hyperparathyroidism, nail patella  
29 syndrome, or acquired immune deficiency syndrome, and as  
30 having pain or spasms due to the illness; or the person  
31 obtained the marijuana in accordance with a legal  
32 prescription. Possession in accordance with the bill's  
33 requirements is an affirmative defense to prosecution for  
34 possession of marijuana and such possession is not subject to  
35 Code chapters 809 and 809A, relating to seizable and

1 forfeitable property.

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

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

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

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