

**Senate File 266 - Introduced**

SENATE FILE 266

BY BOLKCOM

**A BILL FOR**

1 An Act relating to the creation of a medical marijuana Act  
2 including the creation of nonprofit dispensaries, and  
3 providing for civil and criminal penalties and fees.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code 2011, is  
2 amended by adding the following new unnumbered paragraph:

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

6 Sec. 2. NEW SECTION. **124D.1 Citation.**

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

9 Sec. 3. NEW SECTION. **124D.2 Definitions.**

10 As used in this chapter, the following definitions shall  
11 apply:

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

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

18 a. Cancer, glaucoma, positive status for human  
19 immunodeficiency virus, acquired immune deficiency syndrome,  
20 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,  
21 agitation of Alzheimer's disease, nail patella, or the  
22 treatment of any of these conditions.

23 b. A chronic or debilitating disease or medical condition  
24 or its treatment that produces intractable pain, which is pain  
25 that has not responded to ordinary medical or surgical measures  
26 for more than six months.

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

29 (1) Cachexia or wasting syndrome.

30 (2) Severe nausea.

31 (3) Seizures, including but not limited to those  
32 characteristic of epilepsy.

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

35 d. Any other medical condition or its treatment approved by

1 the department.

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

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

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

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

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

13 b. An offense that involved conduct that would have been  
14 permitted under this chapter.

15 6. "*Marijuana*" means the same as defined in section 124.101,  
16 subsection 19.

17 7. "*Medical use*" means the acquisition, possession,  
18 cultivation, manufacture, use, delivery, transfer, or  
19 transportation of marijuana or paraphernalia relating to the  
20 administration of marijuana to treat or alleviate a registered  
21 qualifying patient's debilitating medical condition or symptoms  
22 associated with the patient's debilitating medical condition.

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

29 9. "*Physician*" means an individual licensed under the  
30 provisions of chapter 148 to practice medicine and surgery or  
31 osteopathic medicine and surgery.

32 10. "*Primary caregiver*" means a person twenty-one years  
33 of age or older who has agreed to assist with a qualifying  
34 patient's medical use of marijuana and who has never been  
35 convicted of a felony drug offense, and includes a nonprofit

1 dispensary. Unless the primary caregiver is a nonprofit  
2 dispensary, the primary caregiver shall not assist more than  
3 five qualifying patients with their medical use of marijuana.

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

6 12. *"Registered nonprofit dispensary"* means a nonprofit  
7 dispensary registered by the department pursuant to section  
8 124D.4.

9 13. *"Registry identification card"* means a document issued  
10 by the department that identifies a person as a registered  
11 qualifying patient, registered primary caregiver, or a  
12 principal officer, board member, employee, or agent of a  
13 nonprofit dispensary.

14 14. *"Unusable marijuana"* means marijuana seeds, stalks,  
15 seedlings, and unusable roots. *"Seedling"* means a marijuana  
16 plant without flowers which is less than twelve inches in  
17 height and less than twelve inches in diameter.

18 15. *"Usable marijuana"* means the dried leaves and flowers of  
19 the marijuana plant, and any mixture or preparation thereof,  
20 but does not include the seeds, stalks, and roots of the  
21 plant and does not include the weight of other ingredients in  
22 marijuana prepared for consumption as food.

23 16. *"Visiting qualifying patient"* means a patient with a  
24 debilitating medical condition who is not a resident of this  
25 state or who has been a resident of this state for less than  
26 thirty days.

27 17. *"Written certification"* means a document signed by  
28 a physician, stating that in the physician's professional  
29 opinion the patient is likely to receive therapeutic or  
30 palliative benefit from the medical use of marijuana to treat  
31 or alleviate the patient's debilitating medical condition or  
32 symptoms associated with the debilitating medical condition.  
33 A written certification shall be made only in the course of a  
34 bona fide physician-patient relationship after the physician  
35 has completed a full assessment of the qualifying patient's

1 medical history. The written certification shall specify the  
2 qualifying patient's debilitating medical condition.

3 Sec. 4. NEW SECTION. 124D.3 **Medical use of marijuana.**

4 1. A qualifying patient who has been issued and possesses a  
5 registry identification card shall not be subject to arrest,  
6 prosecution, or penalty in any manner, or denied any right  
7 or privilege, including but not limited to a civil penalty  
8 or disciplinary action by a business or occupational or  
9 professional licensing board or bureau, for the medical use  
10 of marijuana in accordance with this chapter, provided the  
11 marijuana possessed by the qualifying patient:

12 a. Is not more than two and one-half ounces of usable  
13 marijuana.

14 b. If the qualifying patient has not designated a primary  
15 caregiver to cultivate marijuana for the qualifying patient,  
16 does not exceed six marijuana plants, which must be kept in  
17 an enclosed, locked facility unless the plants are being  
18 transported because the qualifying patient is moving or the  
19 plants are being transported to the qualifying patient's  
20 property.

21 2. A primary caregiver other than a nonprofit dispensary who  
22 has been issued and possesses a registry identification card  
23 shall not be subject to arrest, prosecution, 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 business  
26 or occupational or professional licensing board or bureau, for  
27 assisting a qualifying patient to whom the primary caregiver is  
28 connected through the department's registration process with  
29 the medical use of marijuana in accordance with this chapter,  
30 provided that the marijuana possessed by the primary caregiver:

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

35 b. For each qualifying patient who has designated the

1 primary caregiver to cultivate marijuana for the qualifying  
2 patient, does not exceed six marijuana plants, which must be  
3 kept in an enclosed, locked facility unless the plants are  
4 being transported because the primary caregiver is moving.

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

8 4. *a.* There shall be a presumption that a qualifying  
9 patient or primary caregiver is engaged in the medical use of  
10 marijuana pursuant to this chapter if the qualifying patient or  
11 primary caregiver does both of the following:

12 (1) Possesses a registry identification card.

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

15 *b.* The presumption may be rebutted by evidence that  
16 conduct related to marijuana use or possession was not for the  
17 purpose of treating or alleviating the qualifying patient's  
18 debilitating medical condition or symptoms associated with  
19 the debilitating medical condition, in accordance with this  
20 chapter.

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

29 6. A school, employer, or landlord shall not refuse to  
30 enroll, employ, or lease to, or otherwise penalize, a person  
31 solely on the basis of the person's status as a registered  
32 qualifying patient or a registered primary caregiver, unless  
33 failing to do so would put the school, employer, or landlord  
34 in violation of federal law or cause the school, employer, or  
35 landlord to lose a federal contract or funding.

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

6 8. A registered primary caregiver may receive compensation  
7 for costs associated with assisting a registered qualifying  
8 patient's medical use of marijuana, provided that the  
9 registered primary caregiver is connected to the registered  
10 qualifying patient through the department's registration  
11 process. Any such compensation shall not constitute the sale  
12 of controlled substances.

13 9. A physician 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 the board of medicine or by any other business or  
17 occupational or professional licensing board or bureau, solely  
18 for providing written certifications or for otherwise stating  
19 that, in the physician's professional opinion, a patient is  
20 likely to receive therapeutic benefit from the medical use of  
21 marijuana to treat or alleviate the patient's debilitating  
22 medical condition or symptoms associated with the debilitating  
23 medical condition, provided that nothing shall prevent a  
24 professional licensing board from sanctioning a physician for  
25 failing to properly evaluate a patient's medical condition or  
26 otherwise violating the standard of care for evaluating medical  
27 conditions.

28 10. A person shall not be subject to arrest, prosecution,  
29 or penalty in any manner, or denied any right or privilege,  
30 including but not limited to a civil penalty or disciplinary  
31 action by a business or occupational or professional licensing  
32 board or bureau, for providing a registered qualifying patient  
33 or a registered primary caregiver with marijuana paraphernalia  
34 for purposes of a qualifying patient's medical use of  
35 marijuana.

1 11. Any marijuana, marijuana paraphernalia, licit property,  
2 or interest in licit property that is possessed, owned, or used  
3 in connection with the medical use of marijuana, as allowed  
4 under this chapter, or property incidental to such use, shall  
5 not be seized or forfeited.

6 12. A person 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 a civil penalty or disciplinary  
9 action by a business or occupational or professional licensing  
10 board or bureau, simply for being in the presence or vicinity  
11 of the medical use of marijuana as allowed under this chapter,  
12 or for assisting a registered qualifying patient with using or  
13 administering marijuana.

14 13. A registry identification card, or its equivalent, that  
15 is issued under the laws of another state, district, territory,  
16 commonwealth, or insular possession of the United States that  
17 allows the medical use of marijuana by a visiting qualifying  
18 patient, shall have the same force and effect as a registry  
19 identification card issued by the department for purposes of  
20 this chapter.

21 Sec. 5. NEW SECTION. 124D.4 **Nonprofit dispensaries.**

22 1. The department shall register and issue a registration  
23 certificate to a nonprofit dispensary within thirty days of  
24 receiving an application for registration of a nonprofit  
25 dispensary if the prospective nonprofit dispensary provided all  
26 of the following, in accordance with the department's rules:

27 a. An application fee of five thousand dollars.

28 b. The legal name of the nonprofit dispensary.

29 c. The physical address of the nonprofit dispensary and  
30 the physical address of one additional location, if any, where  
31 marijuana will be cultivated.

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

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



1     2. The department shall track the number of registered  
2 qualifying patients who designate a nonprofit dispensary as  
3 a primary caregiver and issue to each nonprofit dispensary  
4 a written statement of the number of qualifying patients  
5 who have designated the nonprofit dispensary to cultivate  
6 marijuana for them. This statement shall be updated each time  
7 a registered qualifying patient newly designates the nonprofit  
8 dispensary or ceases to designate the nonprofit dispensary and  
9 may be transmitted electronically if the department's rules so  
10 provide. The department may provide by rule that the updated  
11 written statements may not be issued more frequently than once  
12 each week.

13     3. Except as provided in subsection 4, the department shall  
14 issue each principal officer, board member, agent, or employee  
15 of a nonprofit dispensary a registry identification card within  
16 ten days of receipt of the person's name, address, date of  
17 birth, and a fee in an amount established by the department.  
18 Each registry identification card shall specify that the  
19 cardholder is a principal officer, board member, agent, or  
20 employee of a nonprofit dispensary and shall contain all of the  
21 following information:

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

24     *b.* The legal name of the nonprofit dispensary with which  
25 the principal officer, board member, agent, or employee is  
26 affiliated.

27     *c.* A random identification number that is unique to the  
28 cardholder.

29     *d.* The date of issuance and expiration date of the registry  
30 identification card.

31     *e.* A photograph, if the department requires inclusion of a  
32 photograph by rule.

33     4. The department shall not issue a registry identification  
34 card to any principal officer, board member, agent, or employee  
35 of a nonprofit dispensary who has been convicted of a felony

1 drug offense. The department may conduct a background check  
2 of each principal officer, board member, agent, or employee  
3 in order to carry out this subsection. The department shall  
4 notify the nonprofit dispensary in writing of the reason for  
5 denying the registry identification card.

6 5. *a.* A nonprofit dispensary registration certificate and  
7 the registry identification card for each principal officer,  
8 board member, agent, or employee shall expire one year after  
9 the date of issuance. The department shall issue a renewal  
10 nonprofit dispensary registration certificate or renewal  
11 registry identification card within ten days to any person who  
12 complies with the requirements in subsection 3.

13 *b.* A registry identification card of a principal officer,  
14 board member, agent, or employee shall expire ten days after  
15 notification by a nonprofit dispensary that such person ceases  
16 to work at the nonprofit dispensary.

17 6. A nonprofit dispensary is subject to reasonable  
18 inspection by the department. The department shall give  
19 reasonable notice of an inspection.

20 7. *a.* A nonprofit dispensary shall be operated on a  
21 not-for-profit basis for the mutual benefit of its members  
22 and patrons. The bylaws of a nonprofit dispensary and its  
23 contracts with patrons shall contain such provisions relative  
24 to the disposition of revenues and receipts as may be necessary  
25 and appropriate to establish and maintain its not-for-profit  
26 status. However, a nonprofit dispensary need not be recognized  
27 as tax-exempt by the Internal Revenue Service and is not  
28 required to incorporate pursuant to chapter 504.

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

32 *c.* A nonprofit dispensary shall notify the department in  
33 writing of the name, address, and date of birth of any new  
34 principal officer, board member, agent, or employee and shall  
35 submit a fee in an amount established by the department for

1 a new registry identification card before the new principal  
2 officer, board member, agent, or employee begins working at the  
3 nonprofit dispensary.

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

7 *e.* The operating documents of a nonprofit dispensary  
8 shall include procedures for the oversight of the nonprofit  
9 dispensary and procedures to ensure accurate recordkeeping.

10 *f.* A nonprofit dispensary is prohibited from acquiring,  
11 possessing, cultivating, manufacturing, delivering,  
12 transferring, transporting, supplying, or dispensing marijuana  
13 for any purpose except to assist registered qualifying patients  
14 with the medical use of marijuana directly or through the  
15 qualifying patients' other primary caregivers.

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

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

20 *i.* A nonprofit dispensary shall not be located within  
21 five hundred feet of the property line of a public or private  
22 school.

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

28 9. *a.* A nonprofit dispensary shall not be subject to  
29 prosecution, search, seizure, or penalty, or be denied any  
30 right or privilege, including but not limited to a civil  
31 penalty or disciplinary action by a business, occupational, or  
32 licensing board or entity, solely for acting in accordance with  
33 this chapter to provide usable marijuana or to otherwise assist  
34 registered qualifying patients connected with the nonprofit  
35 dispensary with the medical use of marijuana.

1     *b.* A principal officer, board member, agent, or employee  
2 of a registered nonprofit dispensary shall not be subject  
3 to arrest, prosecution, search, seizure, or penalty in any  
4 manner or denied any right or privilege, including but not  
5 limited to a civil penalty or disciplinary action by a court or  
6 occupational or professional licensing board or entity, solely  
7 for acting in accordance with this chapter and department rules  
8 to acquire, possess, cultivate, manufacture, deliver, transfer,  
9 transport, supply, or dispense marijuana or related supplies  
10 and educational materials to registered qualifying patients,  
11 to registered primary caregivers on behalf of registered  
12 qualifying patients, or to other nonprofit dispensaries.

13     10. *a.* A nonprofit dispensary shall not possess more  
14 than six live marijuana plants for each registered qualifying  
15 patient who has designated the nonprofit dispensary as a  
16 primary caregiver and has designated that the nonprofit  
17 dispensary will be permitted to cultivate marijuana for the  
18 registered qualifying patient's medical use.

19     *b.* A principal officer, board member, employee, or agent  
20 of a nonprofit dispensary shall not dispense, deliver,  
21 or otherwise transfer marijuana to a person other than a  
22 qualifying patient who has designated the nonprofit dispensary  
23 as a primary caregiver.

24     *c.* The department shall immediately revoke the registry  
25 identification card of a principal officer, board member,  
26 employee, or agent of a nonprofit dispensary who is found to  
27 be in violation of paragraph "b", and such a person shall be  
28 disqualified from serving as a principal officer, board member,  
29 agent, or employee of a nonprofit dispensary.

30     *d.* Except as otherwise provided, a person who has been  
31 convicted of an offense that was classified as a felony in  
32 the jurisdiction where the person was convicted shall not be  
33 eligible to be a principal officer, board member, agent, or  
34 employee of a nonprofit dispensary.

35     (1) A person who is a principal officer, board member,

1 agent, or employee of a nonprofit dispensary in violation of  
2 this paragraph "d" is subject to a civil penalty of up to one  
3 thousand dollars.

4 (2) A person who is a principal officer, board member,  
5 agent, or employee of a nonprofit dispensary in violation  
6 of this paragraph "d" and who, at the time of the violation,  
7 has been previously found to have been in violation of this  
8 paragraph "d" commits a class "D" felony.

9 e. A nonprofit dispensary shall not acquire usable marijuana  
10 or mature marijuana plants except through the cultivation of  
11 marijuana by that nonprofit dispensary.

12 Sec. 6. NEW SECTION. 124D.5 Departmental rules.

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

16 2. Not later than one hundred twenty days after the  
17 effective date of this Act, the department shall adopt  
18 rules that govern the manner in which the department shall  
19 consider petitions from the public to add medical conditions  
20 or treatments to the list of debilitating medical conditions  
21 set forth in section 124D.2, subsection 2. In considering  
22 such petitions, the department shall include public notice  
23 of, and an opportunity to comment in, a public hearing upon  
24 such petitions. The department shall, after hearing, approve  
25 or deny such petitions within one hundred eighty days of  
26 their submission. The approval or denial of such a petition  
27 constitutes final agency action, subject to judicial review.

28 3. Not later than one hundred twenty days after the  
29 effective date of this Act, the department shall adopt rules  
30 governing the manner in which it considers applications for and  
31 renewals of registry identification cards. The department's  
32 rules must establish application and renewal fees that generate  
33 revenues sufficient to offset all expenses of implementing  
34 and administering this chapter. The department may establish  
35 a sliding scale of application and renewal fees based upon

1 a qualifying patient's income. The department may accept  
2 donations from private sources to reduce application and  
3 renewal fees.

4 Sec. 7. NEW SECTION. 124D.6 Registry identification cards  
5 — application — fee — penalty.

6 1. The department shall issue a registry identification  
7 card to a qualifying patient who submits an application  
8 containing all of the following:

9 a. A written certification.

10 b. An application or renewal fee.

11 c. The name, address, and date of birth of the qualifying  
12 patient except that if the applicant is homeless, no address  
13 is required.

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

16 e. The name, address, and date of birth of each primary  
17 caregiver, if any, of the qualifying patient. A qualifying  
18 patient may designate only one primary caregiver unless  
19 the qualifying patient is under eighteen years of age and  
20 requires a parent to serve as a primary caregiver or the  
21 qualifying patient designates a nonprofit dispensary to  
22 cultivate marijuana for the qualifying patient's medical use  
23 and the qualifying patient requests the assistance of a second  
24 caregiver to assist with the qualifying patient's medical use.

25 f. If the qualifying patient designates one or more primary  
26 caregivers, a designation as to who will be allowed under state  
27 law to cultivate marijuana plants for the qualifying patient's  
28 medical use. Only one person may be allowed to cultivate  
29 marijuana plants for a qualifying patient.

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

33 a. The qualifying patient's physician has explained the  
34 potential risks and benefits of the medical use of marijuana  
35 to the qualifying patient and to a parent, guardian, or legal

1 custodian of the qualifying patient.

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

4 (1) Allowing the qualifying patient's medical use of  
5 marijuana.

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

7 (3) Controlling the acquisition of the marijuana, the  
8 dosage, and the frequency of the medical use of marijuana by  
9 the qualifying patient.

10 3. The department shall verify the information contained  
11 in an application or renewal application submitted pursuant  
12 to this section, and shall approve or deny an application  
13 or renewal application within thirty days of receiving the  
14 application or renewal application. The department may deny  
15 an application or a renewal application only if the applicant  
16 fails to provide the information required pursuant to this  
17 section, or the department determines that the information  
18 provided was falsified. Rejection of an application or a  
19 renewal application is considered a final agency action subject  
20 to judicial review pursuant to chapter 17A.

21 4. The department shall issue a registry identification  
22 card to the primary caregiver, if any, who is named in  
23 a qualifying patient's approved application or renewal  
24 application, up to a maximum of one primary caregiver per  
25 qualifying patient, provided the primary caregiver meets the  
26 requirements of section 124D.2, subsection 10.

27 5. The department shall issue a registry identification  
28 card to a qualifying patient and to the primary caregiver  
29 within five days of approving an application or a renewal  
30 application, which shall expire one year after the date of  
31 issuance. A registry identification card shall contain all of  
32 the following:

33 *a.* The name, address, and date of birth of the qualifying  
34 patient.

35 *b.* The name, address, and date of birth of the primary

1 caregiver, if any, of the qualifying patient.

2 *c.* The date of issuance and expiration date of the registry  
3 identification card.

4 *d.* A random identification number.

5 *e.* A photograph, if the department requires a photograph.

6 *f.* A clear designation indicating whether the cardholder  
7 shall be allowed under law to cultivate marijuana plants for  
8 the qualifying patient's medical use, to be determined based  
9 upon the qualifying patient's preference.

10 6. *a.* A registered qualifying patient shall notify the  
11 department of any change in the registered qualifying patient's  
12 name, address, or primary caregiver, preference regarding who  
13 may cultivate marijuana for the registered qualifying patient,  
14 or if the registered qualifying patient ceases to have a  
15 debilitating medical condition, within ten days of such change.

16 *b.* A registered qualifying patient who fails to notify the  
17 department of any of the changes in paragraph "a" is subject  
18 to a civil penalty of up to one hundred fifty dollars. If  
19 the registered qualifying patient's certifying physician  
20 notifies the department in writing that the registered  
21 qualifying patient no longer suffers from a debilitating  
22 medical condition, the registered qualifying patient's registry  
23 identification card shall become void upon notification by the  
24 department to the qualifying patient.

25 *c.* A registered primary caregiver shall notify the  
26 department of any change in the registered primary caregiver's  
27 name or address within ten days of such change. A registered  
28 primary caregiver who fails to notify the department of such  
29 change is subject to a civil penalty of up to one hundred fifty  
30 dollars.

31 *d.* When a registered qualifying patient or registered  
32 primary caregiver notifies the department of any changes  
33 listed in this subsection and submits a fee of ten dollars,  
34 the department shall issue the cardholder a new registry  
35 identification card within ten days of receiving the updated



1 information.

2 *e.* When a registered qualifying patient changes the  
3 registered qualifying patient's registered primary caregiver,  
4 the department shall notify the primary caregiver within  
5 ten days. The registered primary caregiver's protections  
6 as provided in this chapter shall expire ten days after  
7 notification by the department.

8 *f.* If a cardholder loses the cardholder's registry  
9 identification card, the cardholder shall notify the department  
10 and submit a fee of ten dollars within ten days of losing the  
11 card. Within five days after such notification, the department  
12 shall issue a new registry identification card with a new  
13 random identification number to the cardholder.

14 7. Possession of, or application for, a registry  
15 identification card shall not constitute probable cause or  
16 reasonable suspicion and shall not be used to support the  
17 search of the person or property of the person possessing or  
18 applying for the registry identification card. The possession  
19 of or application for a registry identification card does not  
20 prevent the issuance of a warrant if probable cause exists on  
21 other grounds.

22 8. The following confidentiality rules shall apply:

23 *a.* Applications and supporting information submitted by  
24 a qualifying patient, including information regarding the  
25 qualifying patient's primary caregiver and physician, are  
26 confidential.

27 *b.* Applications and supporting information submitted by a  
28 primary caregiver operating in compliance with this chapter,  
29 including the physical address of a nonprofit dispensary, are  
30 confidential.

31 *c.* The department shall maintain a confidential list  
32 of the persons to whom the department has issued registry  
33 identification cards. Individual names and other identifying  
34 information on the list shall be confidential and not subject  
35 to disclosure, except to authorized employees of the department

1 as necessary to perform official duties of the department.

2 *d.* The department shall verify to law enforcement personnel  
3 whether a registry identification card is valid without  
4 disclosing more information than is reasonably necessary to  
5 verify the authenticity of the registry identification card.

6 *e.* (1) A person, including an employee or official of the  
7 department or another state agency or local government, who  
8 breaches the confidentiality of information obtained pursuant  
9 to this chapter commits a serious misdemeanor punishable by  
10 imprisonment of up to one hundred days and a fine of up to one  
11 thousand dollars.

12 (2) Notwithstanding this paragraph "e", department employees  
13 may notify law enforcement about falsified or fraudulent  
14 information submitted to the department, if the employee who  
15 suspects that falsified or fraudulent information has been  
16 submitted confers with the employee's supervisor and the  
17 employee and the employee's supervisor agree that circumstances  
18 exist that warrant reporting.

19 9. A cardholder who sells marijuana to a person who is not  
20 allowed to possess marijuana for medical purposes under this  
21 chapter shall have the cardholder's registry identification  
22 card revoked and is subject to any other penalties for the  
23 sale of marijuana. The department shall revoke the registry  
24 identification card of any cardholder who violates this chapter  
25 and the cardholder is subject to any other penalties for the  
26 violation.

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

32 *a.* The number of applications and renewal applications  
33 submitted for registry identification cards.

34 *b.* The number of registered qualifying patients and  
35 registered primary caregivers in each county.

1     *c.* The nature of the debilitating medical conditions of the  
2 qualifying patients.

3     *d.* The number of registry identification cards revoked.

4     *e.* The number of physicians providing written certifications  
5 for qualifying patients.

6     *f.* The number of registered nonprofit dispensaries.

7     *g.* The number of principal officers, board members,  
8 employees, and agents of nonprofit dispensaries.

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

14     Sec. 8. NEW SECTION. 124D.7 **Scope of chapter.**

15     1. This chapter does not permit any person to do any of the  
16 following:

17     *a.* Undertake any task under the influence of marijuana,  
18 when doing so would constitute negligence or professional  
19 malpractice.

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

22         (1) In a school bus.

23         (2) On the grounds of any preschool or primary or secondary  
24 school.

25         (3) In any correctional facility.

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

27         (1) Any form of public transportation.

28         (2) Any public place.

29     *d.* Operate, navigate, or be in actual physical control  
30 of any motor vehicle, aircraft, or motorboat while under the  
31 influence of marijuana.

32     *e.* Use marijuana if that person does not have a debilitating  
33 medical condition.

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

1     *a.* A government medical assistance program or private health  
2 insurer to reimburse a person for costs associated with the  
3 medical use of marijuana.

4     *b.* An employer to accommodate the ingestion of marijuana in  
5 any workplace or any employee working while under the influence  
6 of marijuana.

7     3. Fraudulent representation to a law enforcement official  
8 of any fact or circumstance relating to the medical use  
9 of marijuana to avoid arrest or prosecution is a simple  
10 misdemeanor, punishable by a fine of five hundred dollars,  
11 in addition to any other penalties that may apply for making  
12 a false statement or for the use of marijuana other than use  
13 undertaken pursuant to this chapter.

14     Sec. 9. NEW SECTION. 124D.8 **Affirmative defenses —**  
15 **dismissal.**

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

23     *a.* A physician has stated that, in the physician's  
24 professional opinion, after having completed a full assessment  
25 of the patient's medical history and current medical  
26 condition made in the course of a bona fide physician-patient  
27 relationship, the qualifying patient is likely to receive  
28 therapeutic or palliative benefit from the medical use of  
29 marijuana to treat or alleviate the qualifying patient's  
30 debilitating medical condition or symptoms associated with the  
31 qualifying patient's debilitating medical condition.

32     *b.* The qualifying patient and the qualifying patient's  
33 primary caregiver, if any, were collectively in possession of  
34 a quantity of marijuana that was not more than was reasonably  
35 necessary to ensure the uninterrupted availability of marijuana

1 for the purpose of treating or alleviating the qualifying  
2 patient's debilitating medical condition or symptoms associated  
3 with the qualifying patient's debilitating medical condition.

4     *c.* The qualifying patient and the qualifying patient's  
5 primary caregiver were engaged in the acquisition, possession,  
6 cultivation, manufacture, use, delivery, transfer, or  
7 transportation of marijuana or paraphernalia relating to the  
8 administration of marijuana solely to treat or alleviate the  
9 qualifying patient's debilitating medical condition or symptoms  
10 associated with the qualifying patient's debilitating medical  
11 condition.

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

16     3. If a qualifying patient or a patient's primary caregiver  
17 demonstrates the qualifying patient's medical purpose for using  
18 marijuana pursuant to this section, the qualifying patient and  
19 the patient's primary caregiver shall not be subject to any of  
20 the following for the qualifying patient's use of marijuana for  
21 medical purposes:

22     *a.* Disciplinary action by a business or occupational or  
23 professional licensing board or bureau.

24     *b.* Forfeiture of any interest in or right to nonmarijuana,  
25 licit property.

26     Sec. 10. NEW SECTION. 124D.9 **Enforcement.**

27     1. If the department fails to adopt rules to implement the  
28 requirements of this chapter within one hundred twenty days  
29 of the effective date of this Act, a qualifying patient may  
30 commence an action in district court to compel the department  
31 to perform the department's duties pursuant to this chapter.

32     2. If the department fails to issue a valid registry  
33 identification card or a registration certificate in response  
34 to a valid application or renewal application submitted  
35 pursuant to this chapter within forty-five days of its

1 submission, the registry identification card or registration  
2 certificate is deemed granted, and a copy of the registry  
3 identification card application or renewal application is  
4 deemed a valid registry identification card.

5 3. If at any time after January 1, 2012, the department  
6 is not accepting applications pursuant to this chapter,  
7 including if it has not promulgated rules allowing qualifying  
8 patients to submit applications, a notarized statement by a  
9 qualifying patient containing the information required in  
10 an application, pursuant to section 124D.6, together with  
11 a written certification, shall be deemed a valid registry  
12 identification card.

13 Sec. 11. Section 453B.6, Code 2011, is amended by adding the  
14 following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. A person who is in possession  
16 of marijuana for medical purposes in accordance with chapter  
17 124D is in lawful possession of a taxable substance and is not  
18 subject to the requirements of this chapter.

19 EXPLANATION

20 This bill establishes new Code chapter 124D, the medical  
21 marijuana Act, relating to the possession and use of marijuana  
22 for therapeutic purposes, provides for the creation of  
23 nonprofit dispensaries, and provides for civil and criminal  
24 penalties and fees.

25 The bill provides that a qualifying patient who has been  
26 issued and possesses a registry identification card shall not  
27 be subject to arrest, prosecution, or civil penalty, or denied  
28 any right or privilege, for the qualifying patient's medical  
29 use of marijuana pursuant to the provisions of the bill.

30 The bill defines a qualifying patient as a person who has  
31 been diagnosed by a physician with a debilitating medical  
32 condition defined as cancer, glaucoma, positive status for  
33 human immunodeficiency virus, acquired immune deficiency  
34 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's  
35 disease, agitation of Alzheimer's disease, nail patella,

1 a chronic or debilitating disease or medical condition or  
2 its treatment that produces intractable pain, a chronic or  
3 debilitating medical condition that produces one or more of  
4 the following: cachexia or wasting syndrome, severe nausea,  
5 certain seizures, or certain muscle spasms, or any other  
6 medical condition or its treatment approved by the department  
7 of public health (department). A primary caregiver is defined  
8 as a person, 21 or older, who has agreed to assist with a  
9 qualifying patient's medical use of marijuana who has never  
10 been convicted of a felony drug offense. A primary caregiver  
11 also includes a nonprofit dispensary. A physician is defined  
12 as a physician or surgeon or osteopathic physician or surgeon  
13 licensed under Code chapter 148.

14 The bill provides for the creation of nonprofit  
15 dispensaries. The bill defines a nonprofit dispensary as  
16 a not-for-profit organization registered by the department  
17 that acquires, possesses, cultivates, manufactures, delivers,  
18 transfers, transports, sells, supplies, or dispenses marijuana  
19 or related supplies and educational materials to qualifying  
20 patients and primary caregivers who possess a valid registry  
21 identification card. The bill provides specific guidelines for  
22 regulation of nonprofit dispensaries and principal officers,  
23 board members, employees, or agents of a nonprofit dispensary  
24 by the department. A person who has been convicted of a felony  
25 offense shall not be eligible to be a principal officer, board  
26 member, agent, or employee of a nonprofit dispensary, unless  
27 otherwise permitted by the department. A first violation  
28 of this provision is punishable by a civil penalty of up to  
29 \$1,000. A subsequent violation is a class "D" felony.

30 The bill provides that the department shall adopt rules  
31 for implementing the bill including rules relating to the  
32 consideration of petitions from the public to add additional  
33 debilitating medical conditions to the list of debilitating  
34 medical conditions specified in the bill, rules relating  
35 to applications and renewal applications for registry

1 identification cards issued to qualifying patients and primary  
2 caregivers, and rules relating to registration certificates for  
3 nonprofit dispensaries. The department shall establish fees  
4 which shall meet certain requirements.

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

25 The bill provides that a registered qualifying patient or  
26 a registered primary caregiver who loses their registration  
27 identification card or who makes changes to certain information  
28 relevant to their registration identification card shall  
29 notify the department. A registered qualifying patient or a  
30 registered primary caregiver who fails to notify the department  
31 of any changes in information relevant to the registration  
32 identification card is subject to a civil penalty of up to  
33 \$150.

34 The bill provides that applications and supporting  
35 information submitted by a qualifying patient, primary



1 caregiver, physician, nonprofit dispensary, or board member,  
2 employee, or agent of a nonprofit dispensary, are confidential.  
3 The bill also provides that a person, including an employee or  
4 official of the department or another state or local agency,  
5 who disseminates information received in connection with an  
6 application for a registry identification card pursuant to the  
7 bill, is guilty of a serious misdemeanor and is subject to  
8 confinement in jail for up to 100 days and a fine of \$1,000.

9     The bill prohibits the possession and use of medical  
10 marijuana in certain places and during certain activities.

11 The bill provides that any fraudulent representation to a law  
12 enforcement official relating to the use of medical marijuana  
13 is a simple misdemeanor, punishable by a fine of up to \$500.

14     The bill amends Code section 124.401, relating to prohibited  
15 acts involving controlled substances, to provide that it is  
16 lawful for a person to knowingly or intentionally possess  
17 marijuana if the possession is in accordance with the  
18 provisions of the bill. The bill also amends Code section  
19 453B.6, relating to tax stamps for controlled substances, to  
20 specify that possession in accordance with the provisions of  
21 the bill is lawful possession and a tax stamp is not required.