

Senate File 484 - Introduced

SENATE FILE 484

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1243)

A BILL FOR

1 An Act creating the medical cannabis Act and providing for
2 civil and criminal penalties and fees.

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

1 Section 1. Section 124.401, subsection 5, unnumbered
2 paragraph 3, Code 2015, is amended to read as follows:

3 A person may knowingly or intentionally recommend, possess,
4 use, dispense, deliver, transport, or administer ~~cannabidiol~~
5 medical cannabis if the recommendation, possession, use,
6 dispensing, delivery, transporting, or administering is in
7 accordance with the provisions of chapter ~~124D~~ 124E. For
8 purposes of this paragraph, ~~"cannabidiol"~~ "medical cannabis"
9 means the same as defined in section ~~124D.2~~ 124E.2.

10 Sec. 2. NEW SECTION. 124E.1 Short title.

11 This chapter shall be known and may be cited as the "*Medical*
12 *Cannabis Act*".

13 Sec. 3. NEW SECTION. 124E.2 Definitions.

14 As used in this chapter:

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

17 a. Cancer.

18 b. Multiple sclerosis.

19 c. Epilepsy.

20 d. AIDS or HIV as defined in section 141A.1.

21 e. Glaucoma.

22 f. Hepatitis C.

23 g. Crohn's disease or ulcerative colitis.

24 h. Amyotrophic lateral sclerosis.

25 i. Ehlers-danlos syndrome.

26 j. Post-traumatic stress disorder.

27 k. Severe, chronic pain caused by an underlying medical
28 condition that is not responsive to conventional treatment or
29 conventional treatment that produces debilitating side effects.

30 1. Any other chronic or debilitating disease or medical
31 condition or its medical treatment approved by the department
32 pursuant to rule.

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

34 3. "*Disqualifying felony offense*" means a violation under
35 federal or state law of a felony offense, which has as an

1 element the possession, use, or distribution of a controlled
2 substance, as defined in 21 U.S.C. §802(6).

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. "*Health care practitioner*" means an individual licensed
7 under chapter 148 to practice medicine and surgery or
8 osteopathic medicine and surgery, a physician assistant
9 licensed under chapter 148C, or an advanced registered nurse
10 practitioner licensed pursuant to chapter 152 or 152E.

11 6. "*Medical cannabis*" means any species of the genus
12 cannabis plant, or any mixture or preparation of them,
13 including whole plant extracts and resins.

14 7. "*Medical cannabis dispensary*" means an entity licensed
15 under section 124E.8 that acquires medical cannabis from a
16 medical cannabis manufacturer in this state for the purpose
17 of dispensing medical cannabis in this state pursuant to this
18 chapter.

19 8. "*Medical cannabis manufacturer*" means an entity licensed
20 by the department to manufacture and to possess, cultivate,
21 transport, or supply medical cannabis pursuant to the
22 provisions of this chapter.

23 9. "*Primary caregiver*" means a person, at least eighteen
24 years of age, who has been designated by a patient's health
25 care practitioner or a person having custody of a patient, as
26 a necessary caretaker taking responsibility for managing the
27 well-being of the patient with respect to the use of medical
28 cannabis pursuant to the provisions of this chapter.

29 10. "*Written certification*" means a document signed by a
30 health care practitioner, with whom the patient has established
31 a patient-provider relationship, which states that the patient
32 has a debilitating medical condition and identifies that
33 condition and provides any other relevant information.

34 Sec. 4. NEW SECTION. 124E.3 **Health care practitioner**
35 **certification — duties.**

1 1. Prior to a patient's submission of an application for a
2 medical cannabis card pursuant to section 124E.4, a health care
3 practitioner shall do all of the following:

4 a. Determine, in the health care practitioner's medical
5 judgment, whether the patient whom the health care practitioner
6 has examined and treated suffers from a debilitating medical
7 condition that qualifies for the use of medical cannabis under
8 this chapter, and if so determined, provide the patient with a
9 written certification of that diagnosis.

10 b. Provide explanatory information as provided by the
11 department to the patient about the therapeutic use of medical
12 cannabis.

13 2. Determine, on an annual basis, if the patient continues
14 to suffer from a debilitating medical condition and, if so,
15 issue the patient a new certification of that diagnosis.

16 3. Otherwise comply with all requirements established by
17 the department pursuant to rule.

18 4. A health care practitioner may provide, but has no duty
19 to provide, a written certification pursuant to this section.

20 Sec. 5. NEW SECTION. 124E.4 **Medical cannabis registration**
21 **card.**

22 1. *Issuance to patient.* The department may approve the
23 issuance of a medical cannabis registration card by the
24 department of transportation to a patient who:

25 a. Is at least eighteen years of age.

26 b. Is a permanent resident of this state.

27 c. Submits a written certification to the department signed
28 by the patient's health care practitioner that the patient is
29 suffering from a debilitating medical condition.

30 d. Submits an application to the department, on a form
31 created by the department, in consultation with the department
32 of transportation, that contains all of the following:

33 (1) The patient's full name, Iowa residence address, date
34 of birth, and telephone number.

35 (2) A copy of the patient's valid photo identification.

1 (3) Full name, address, and telephone number of the
2 patient's health care practitioner.

3 (4) Full name, residence address, date of birth, and
4 telephone number of each primary caregiver of the patient, if
5 any.

6 (5) Any other information required by rule.

7 e. Submits a medical cannabis registration card fee of one
8 hundred dollars to the department. If the patient attests to
9 receiving social security disability benefits, supplemental
10 security insurance payments, or being enrolled in medical
11 assistance, the fee shall be twenty-five dollars.

12 2. *Patient card contents.* A medical cannabis registration
13 card issued to a patient by the department of transportation
14 pursuant to subsection 1 shall contain, at a minimum, all of
15 the following:

16 a. The patient's full name, Iowa residence address, and date
17 of birth.

18 b. The patient's photo.

19 c. The date of issuance and expiration date of the
20 registration card.

21 d. Any other information required by rule.

22 3. *Issuance to primary caregiver.* For a patient in a
23 primary caregiver's care, the department may approve the
24 issuance of a medical cannabis registration card by the
25 department of transportation to the primary caregiver who:

26 a. Is at least eighteen years of age.

27 b. Submits a written certification to the department signed
28 by the patient's health care practitioner that the patient in
29 the primary caregiver's care is suffering from a debilitating
30 medical condition.

31 c. Submits an application to the department, on a form
32 created by the department, in consultation with the department
33 of transportation, that contains all of the following:

34 (1) The primary caregiver's full name, residence address,
35 date of birth, and telephone number.

1 (2) The patient's full name.

2 (3) A copy of the primary caregiver's valid photo
3 identification.

4 (4) Full name, address, and telephone number of the
5 patient's health care practitioner.

6 (5) Any other information required by rule.

7 *d.* Submits a medical cannabis registration card fee of
8 twenty-five dollars to the department.

9 4. *Primary caregiver card contents.* A medical cannabis
10 registration card issued by the department of transportation to
11 a primary caregiver pursuant to subsection 3 shall contain, at
12 a minimum, all of the following:

13 *a.* The primary caregiver's full name, residence address, and
14 date of birth.

15 *b.* The primary caregiver's photo.

16 *c.* The date of issuance and expiration date of the
17 registration card.

18 *d.* The registration card number of each patient in the
19 primary caregiver's care. If the patient in the primary
20 caregiver's care is under the age of eighteen, the full name of
21 the patient's parent or legal guardian.

22 *e.* Any other information required by rule.

23 5. *Expiration date of card.* A medical cannabis registration
24 card issued pursuant to this section shall expire one year
25 after the date of issuance and may be renewed.

26 6. *Card issuance — department of transportation.* The
27 department may enter into a chapter 28E agreement with the
28 department of transportation to facilitate the issuance of
29 medical cannabis registration cards pursuant to subsections 1
30 and 3.

31 **Sec. 6. NEW SECTION. 124E.5 Medical advisory board —**
32 **duties.**

33 1. No later than August 15, 2015, the director of public
34 health shall establish a medical advisory board consisting of
35 eight practitioners representing the fields of neurology, pain

1 management, gastroenterology, oncology, psychiatry, infectious
2 disease, family medicine, and pharmacy, and three patients with
3 valid medical cannabis registration cards. The practitioners
4 shall be nationally board-certified in their area of specialty
5 and knowledgeable about the use of medical cannabis.

6 2. A quorum of the advisory board shall consist of six
7 members.

8 3. The duties of the advisory board shall include but not be
9 limited to the following:

10 a. Reviewing and recommending to the department for
11 approval additional chronic or debilitating diseases or
12 medical conditions or their treatments as debilitating medical
13 conditions that qualify for the use of medical cannabis under
14 this chapter.

15 b. Accepting and reviewing petitions to add chronic or
16 debilitating diseases or medical conditions or their medical
17 treatments to the list of debilitating medical conditions that
18 qualify for the use of medical cannabis under this chapter.

19 c. Advising the department regarding the location of
20 medical cannabis dispensaries throughout the state, the form
21 and quantity of allowable medical cannabis to be dispensed
22 to a patient or primary caregiver, and the general oversight
23 of medical cannabis manufacturers and medical cannabis
24 dispensaries in this state.

25 d. Convening at least twice per year to conduct public
26 hearings and to evaluate petitions, which shall be maintained
27 as confidential personal health information, to add chronic or
28 debilitating diseases or medical conditions or their medical
29 treatments to the list of debilitating medical conditions that
30 qualify for the use of medical cannabis under this chapter.

31 **Sec. 7. NEW SECTION. 124E.6 Medical cannabis manufacturer**
32 **licensure.**

33 1. a. The department shall license four medical cannabis
34 manufacturers to manufacture medical cannabis within this state
35 consistent with the provisions of this chapter by December

1 1, 2015. The department shall license new medical cannabis
2 manufacturers or relicense the existing medical cannabis
3 manufacturers by December 1 of each year.

4 *b.* Information submitted during the application process
5 shall be confidential until the medical cannabis manufacturer
6 is licensed by the department unless otherwise protected from
7 disclosure under state or federal law.

8 2. As a condition for licensure, a medical cannabis
9 manufacturer must agree to begin supplying medical cannabis to
10 medical cannabis dispensaries in this state by July 1, 2016.

11 3. The department shall consider the following factors in
12 determining whether to license a medical cannabis manufacturer:

13 *a.* The technical expertise of the medical cannabis
14 manufacturer in medical cannabis.

15 *b.* The qualifications of the medical cannabis manufacturer's
16 employees.

17 *c.* The long-term financial stability of the medical cannabis
18 manufacturer.

19 *d.* The ability to provide appropriate security measures on
20 the premises of the medical cannabis manufacturer.

21 *e.* Whether the medical cannabis manufacturer has
22 demonstrated an ability to meet certain medical cannabis
23 production needs for medical use regarding the range of
24 recommended dosages for each debilitating medical condition,
25 the range of chemical compositions of any plant of the genus
26 cannabis that will likely be medically beneficial for each
27 of the debilitating medical conditions, and the form of the
28 medical cannabis in the manner determined by the department
29 pursuant to rule.

30 *f.* The medical cannabis manufacturer's projection of and
31 ongoing assessment of fees on patients with debilitating
32 medical conditions.

33 4. The department shall require each medical cannabis
34 manufacturer to contract with the state hygienic laboratory
35 at the university of Iowa in Iowa City to test the medical

1 cannabis produced by the manufacturer. The department shall
2 require that the laboratory report testing results to the
3 manufacturer in a manner determined by the department pursuant
4 to rule.

5 5. Each entity submitting an application for licensure
6 as a medical cannabis manufacturer shall pay a nonrefundable
7 application fee of seven thousand five hundred dollars to the
8 department.

9 Sec. 8. NEW SECTION. **124E.7 Medical cannabis manufacturers.**

10 1. A medical cannabis manufacturer shall contract with the
11 state hygienic laboratory at the university of Iowa in Iowa
12 City for purposes of testing the medical cannabis manufactured
13 by the medical cannabis manufacturer as to content,
14 contamination, and consistency. The cost of all laboratory
15 testing shall be paid by the medical cannabis manufacturer.

16 2. The operating documents of a medical cannabis
17 manufacturer shall include all of the following:

18 a. Procedures for the oversight of the medical cannabis
19 manufacturer and procedures to ensure accurate record keeping.

20 b. Procedures for the implementation of appropriate security
21 measures to deter and prevent the theft of medical cannabis and
22 unauthorized entrance into areas containing medical cannabis.

23 3. A medical cannabis manufacturer shall implement security
24 requirements, including requirements for protection of each
25 location by a fully operational security alarm system, facility
26 access controls, perimeter intrusion detection systems, and a
27 personnel identification system.

28 4. A medical cannabis manufacturer shall not share
29 office space with, refer patients to, or have any financial
30 relationship with a health care practitioner.

31 5. A medical cannabis manufacturer shall not permit any
32 person to consume medical cannabis on the property of the
33 medical cannabis manufacturer.

34 6. A medical cannabis manufacturer is subject to reasonable
35 inspection by the department.

1 7. A medical cannabis manufacturer shall not employ
2 a person under eighteen years of age or who has been
3 convicted of a disqualifying felony offense. An employee
4 of a medical cannabis manufacturer shall be subject to a
5 background investigation conducted by the division of criminal
6 investigation of the department of public safety and a national
7 criminal history background check.

8 8. A medical cannabis manufacturer shall not operate in any
9 location, whether for manufacturing, cultivating, harvesting,
10 packaging, or processing, within one thousand feet of a public
11 or private school existing before the date of the medical
12 cannabis manufacturer's licensure by the department.

13 9. A medical cannabis manufacturer shall comply with
14 reasonable restrictions set by the department relating to
15 signage, marketing, display, and advertising of medical
16 cannabis.

17 10. *a.* A medical cannabis manufacturer shall provide a
18 reliable and ongoing supply of medical cannabis to medical
19 cannabis dispensaries pursuant to this chapter.

20 *b.* All manufacturing, cultivating, harvesting,
21 manufacturing, packaging, and processing of medical cannabis
22 shall take place in an enclosed, locked facility at a physical
23 address provided to the department during the licensure
24 process.

25 **Sec. 9. NEW SECTION. 124E.8 Medical cannabis dispensary**
26 **licensure.**

27 1. *a.* The department shall license by April 1, 2016, twelve
28 medical cannabis dispensaries to dispense medical cannabis
29 within this state consistent with the provisions of this
30 chapter. The department shall license new medical cannabis
31 dispensaries or relicense the existing medical cannabis
32 manufacturers by December 1 of each year.

33 *b.* Information submitted during the application process
34 shall be confidential until the medical cannabis dispensary
35 is licensed by the department unless otherwise protected from

1 disclosure under state or federal law.

2 2. As a condition for licensure, a medical cannabis
3 dispensary must agree to begin supplying medical cannabis to
4 patients by July 1, 2016.

5 3. The department shall consider the following factors in
6 determining whether to license a medical cannabis dispensary:

7 a. The technical expertise of the medical cannabis
8 dispensary regarding medical cannabis.

9 b. The qualifications of the medical cannabis dispensary's
10 employees.

11 c. The long-term financial stability of the medical cannabis
12 dispensary.

13 d. The ability to provide appropriate security measures on
14 the premises of the medical cannabis dispensary.

15 e. The medical cannabis dispensary's projection and ongoing
16 assessment of fees for the purchase of medical cannabis on
17 patients with debilitating medical conditions.

18 4. Each entity submitting an application for licensure
19 as a medical cannabis dispensary shall pay a nonrefundable
20 application fee of five thousand dollars to the department.

21 Sec. 10. NEW SECTION. **124E.9 Medical cannabis dispensaries.**

22 1. a. The medical cannabis dispensaries shall be located
23 based on geographical need throughout the state to improve
24 patient access.

25 b. A medical cannabis dispensary may dispense medical
26 cannabis pursuant to the provisions of this chapter but shall
27 not dispense any medical cannabis in a form or quantity other
28 than the form or quantity allowed by the department pursuant
29 to rule.

30 2. The operating documents of a medical cannabis dispensary
31 shall include all of the following:

32 a. Procedures for the oversight of the medical cannabis
33 dispensary and procedures to ensure accurate record keeping.

34 b. Procedures for the implementation of appropriate security
35 measures to deter and prevent the theft of medical cannabis and

1 unauthorized entrance into areas containing medical cannabis.

2 3. A medical cannabis dispensary shall implement security
3 requirements, including requirements for protection by a fully
4 operational security alarm system, facility access controls,
5 perimeter intrusion detection systems, and a personnel
6 identification system.

7 4. A medical cannabis dispensary shall not share office
8 space with, refer patients to, or have any financial
9 relationship with a health care practitioner.

10 5. A medical cannabis dispensary shall not permit any person
11 to consume medical cannabis on the property of the medical
12 cannabis dispensary.

13 6. A medical cannabis dispensary is subject to reasonable
14 inspection by the department.

15 7. A medical cannabis dispensary shall not employ
16 a person under eighteen years of age or who has been
17 convicted of a disqualifying felony offense. An employee
18 of a medical cannabis dispensary shall be subject to a
19 background investigation conducted by the division of criminal
20 investigation of the department of public safety and a national
21 criminal history background check.

22 8. A medical cannabis dispensary shall not operate in any
23 location within one thousand feet of a public or private school
24 existing before the date of the medical cannabis dispensary's
25 licensure by the department.

26 9. A medical cannabis dispensary shall comply with
27 reasonable restrictions set by the department relating to
28 signage, marketing, display, and advertising of medical
29 cannabis.

30 10. Prior to dispensing of any medical cannabis, a medical
31 cannabis dispensary shall do all of the following:

32 a. Verify that the medical cannabis dispensary has received
33 a valid medical cannabis registration card from a patient or a
34 patient's primary caregiver, if applicable.

35 b. Assign a tracking number to any medical cannabis

1 dispensed from the medical cannabis dispensary.

2 *c.* Properly package medical cannabis in compliance with
3 federal law regarding child resistant packaging and exemptions
4 for packaging for elderly patients, and label medical cannabis
5 with a list of all active ingredients and individually
6 identifying information, including all of the following:

7 (1) The name and date of birth of the patient and the
8 patient's primary caregiver, if appropriate.

9 (2) The medical cannabis registration card numbers of the
10 patient and the patient's primary caregiver, if applicable.

11 (3) The chemical composition of the medical cannabis.

12 **Sec. 11. NEW SECTION. 124E.10 Fees.**

13 Medical cannabis registration card fees and medical cannabis
14 manufacturer and medical cannabis dispensary application
15 and annual fees collected by the department pursuant to
16 this chapter shall be retained by the department, shall be
17 considered repayment receipts as defined in section 8.2, and
18 shall be used for the purpose of regulating medical cannabis
19 manufacturers and medical cannabis dispensaries and for other
20 expenses necessary for the administration of this chapter.

21 **Sec. 12. NEW SECTION. 124E.11 Department duties — rules.**

22 1. *a.* The department shall maintain a confidential file
23 of the names of each patient to or for whom the department
24 issues a medical cannabis registration card and the name of
25 each primary caregiver to whom the department issues a medical
26 cannabis registration card under section 124E.4.

27 *b.* Individual names contained in the file shall be
28 confidential and shall not be subject to disclosure, except as
29 provided in subparagraph (1).

30 (1) Information in the confidential file maintained
31 pursuant to paragraph "a" may be released on an individual basis
32 to the following persons under the following circumstances:

33 (a) To authorized employees or agents of the department and
34 the department of transportation as necessary to perform the
35 duties of the department and the department of transportation

1 pursuant to this chapter.

2 (b) To authorized employees of state or local law
3 enforcement agencies, but only for the purpose of verifying
4 that a person is lawfully in possession of a medical cannabis
5 registration card issued pursuant to this chapter.

6 (c) To authorized employees of a medical cannabis
7 dispensary, but only for the purpose of verifying that a person
8 is lawfully in possession of a medical cannabis registration
9 card issued pursuant to this chapter.

10 (2) Release of information pursuant to subparagraph
11 (1) shall be consistent with the federal Health Insurance
12 Portability and Accountability Act of 1996, Pub. L. No.
13 104-191.

14 2. The department shall adopt rules pursuant to chapter
15 17A to administer this chapter which shall include but not be
16 limited to rules to do all of the following:

17 a. Govern the manner in which the department shall consider
18 applications for new and renewal medical cannabis registration
19 cards.

20 b. Identify criteria and set forth procedures for
21 including additional chronic or debilitating diseases or
22 medical conditions or their medical treatments on the list of
23 debilitating medical conditions that qualify for the use of
24 medical cannabis. Procedures shall include a petition process
25 and shall allow for public comment and public hearings before
26 the medical advisory board.

27 c. Set forth additional chronic or debilitating diseases or
28 medical conditions or their medical treatments for inclusion
29 on the list of debilitating medical conditions that qualify
30 for the use of medical cannabis as recommended by the medical
31 advisory board.

32 d. Establish the form and quantity of medical cannabis
33 allowed to be dispensed to a patient or primary caregiver
34 pursuant to this chapter. The form and quantity of medical
35 cannabis shall be appropriate to serve the medical needs of

1 patients with debilitating conditions.

2 e. Establish requirements for the licensure of medical
3 cannabis manufacturers and medical cannabis dispensaries and
4 set forth procedures for medical cannabis manufacturers and
5 medical cannabis dispensaries to obtain licenses.

6 f. Develop a dispensing system for medical cannabis within
7 this state that provides for all of the following:

8 (1) Medical cannabis dispensaries within this state housed
9 on secured grounds and operated by licensed medical cannabis
10 dispensaries.

11 (2) The dispensing of medical cannabis to patients and
12 their primary caregivers to occur at locations designated by
13 the department.

14 g. Establish and collect annual fees from medical cannabis
15 manufacturers and medical cannabis dispensaries to cover
16 the costs associated with regulating and inspecting medical
17 cannabis manufacturers and medical cannabis dispensaries.

18 h. Specify and implement procedures that address public
19 safety including security procedures and product quality
20 including measures to ensure contaminant-free cultivation of
21 medical cannabis, safety, and labeling.

22 Sec. 13. NEW SECTION. 124E.12 **Reciprocity.**

23 A valid medical cannabis registration card, or its
24 equivalent, issued under the laws of another state that allows
25 an out-of-state patient to possess or use medical cannabis in
26 the jurisdiction of issuance shall have the same force and
27 effect as a valid medical cannabis registration card issued
28 pursuant to this chapter, except that an out-of-state patient
29 in this state shall not obtain medical cannabis from a medical
30 cannabis dispensary in this state.

31 Sec. 14. NEW SECTION. 124E.13 **Use of medical cannabis —**
32 **smoking prohibited.**

33 A patient shall not consume medical cannabis possessed or
34 used as authorized by this chapter by smoking medical cannabis.

35 Sec. 15. NEW SECTION. 124E.14 **Use of medical cannabis —**

1 **affirmative defenses.**

2 1. A health care practitioner, including any authorized
3 agent or employee thereof, shall not be subject to
4 prosecution for the unlawful certification, possession, or
5 administration of marijuana under the laws of this state for
6 activities arising directly out of or directly related to the
7 certification or use of medical cannabis in the treatment of
8 a patient diagnosed with a debilitating medical condition as
9 authorized by this chapter.

10 2. A medical cannabis manufacturer, including any
11 authorized agent or employee thereof, shall not be subject
12 to prosecution for manufacturing, possessing, cultivating,
13 harvesting, packaging, processing, transporting, or supplying
14 medical cannabis pursuant to this chapter.

15 3. A medical cannabis dispensary, including any authorized
16 agent or employee thereof, shall not be subject to prosecution
17 for transporting, supplying, or dispensing medical cannabis
18 pursuant to this chapter.

19 *a.* In a prosecution for the unlawful possession of marijuana
20 under the laws of this state, including but not limited to
21 chapters 124 and 453B, it is an affirmative and complete
22 defense to the prosecution that the patient has been diagnosed
23 with a debilitating medical condition, used or possessed
24 medical cannabis pursuant to a certification by a health care
25 practitioner as authorized under this chapter, and, for a
26 patient eighteen years of age or older, is in possession of a
27 valid medical cannabis registration card.

28 *b.* In a prosecution for the unlawful possession of marijuana
29 under the laws of this state, including but not limited to
30 chapters 124 and 453B, it is an affirmative and complete
31 defense to the prosecution that the person possessed medical
32 cannabis because the person is a primary caregiver of a patient
33 who has been diagnosed with a debilitating medical condition
34 and is in possession of a valid medical cannabis registration
35 card, and where the primary caregiver's possession of the

1 medical cannabis is on behalf of the patient and for the
2 patient's use only as authorized under this chapter.

3 c. If a patient or primary caregiver is charged with the
4 commission of a crime and is not in possession of the person's
5 medical cannabis registration card, any charge or charges filed
6 against the person shall be dismissed by the court if the
7 person produces to the court prior to or at the person's trial
8 a medical cannabis registration card issued to that person and
9 valid at the time the person was charged.

10 4. An agency of this state or a political subdivision
11 thereof, including any law enforcement agency, shall not remove
12 or initiate proceedings to remove a patient under the age
13 of eighteen from the home of a parent based solely upon the
14 parent's or patient's possession or use of medical cannabis as
15 authorized under this chapter.

16 Sec. 16. NEW SECTION. 124E.15 Penalties.

17 1. A person who knowingly or intentionally possesses or
18 uses medical cannabis in violation of the requirements of this
19 chapter is subject to the penalties provided under chapters 124
20 and 453B.

21 2. A medical cannabis manufacturer or a medical cannabis
22 dispensary shall be assessed a civil penalty of up to one
23 thousand dollars per violation for any violation of this
24 chapter in addition to any other applicable penalties.

25 Sec. 17. EMERGENCY RULES. The department may adopt
26 emergency rules under section 17A.4, subsection 3, and section
27 17A.5, subsection 2, paragraph "b", to implement the provisions
28 of this Act and the rules shall be effective immediately upon
29 filing unless a later date is specified in the rules. Any
30 rules adopted in accordance with this section shall also be
31 published as a notice of intended action as provided in section
32 17A.4.

33 Sec. 18. TRANSITION PROVISIONS. A medical cannabis
34 registration card issued under chapter 124D prior to July 1,
35 2015, remains effective and continues in effect as issued for

1 the twelve-month period following its issuance. This Act does
2 not preclude the permit holder from seeking to renew the permit
3 under this Act prior to the expiration of the twelve-month
4 period.

5 Sec. 19. REPORTS. The university of Iowa Carver college of
6 medicine and college of pharmacy shall, on or before July 1 of
7 each year, beginning July 1, 2016, submit a report detailing
8 the scientific literature, studies, and clinical trials
9 regarding the use of medical cannabis on patients diagnosed
10 with debilitating medical conditions as defined in this Act to
11 the department of public health and the general assembly.

12 Sec. 20. REPEAL. Chapter 124D, Code 2015, is repealed.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill creates the medical cannabis Act and provides for
17 civil and criminal penalties and fees.

18 OVERVIEW. The bill allows a patient with a debilitating
19 medical condition who receives written certification from
20 the patient's health care practitioner that the patient has
21 a debilitating medical condition and who submits the written
22 certification along with an application to the department of
23 public health (department) for a medical cannabis registration
24 card to allow for the lawful use of medical cannabis to treat
25 the patient's debilitating medical condition. A patient who
26 is issued a medical cannabis registration card will be able
27 to receive medical cannabis directly from a licensed medical
28 cannabis dispensary in this state.

29 DEFINITIONS. The bill provides the following definitions:

30 "Debilitating medical condition" means cancer; multiple
31 sclerosis; epilepsy; AIDS or HIV; glaucoma; hepatitis C;
32 Crohn's disease or ulcerative colitis; amyotrophic lateral
33 sclerosis; Ehlers-danlos syndrome; post-traumatic stress
34 disorder; severe, chronic pain caused by an underlying medical
35 condition that is not responsive to conventional treatment or

1 conventional treatment that produces debilitating side effects;
2 and any other chronic or debilitating disease or medical
3 condition or its medical treatment approved by the department
4 by rule.

5 "Health care practitioner" means an individual licensed
6 under Code chapter 148 to practice medicine and surgery
7 or osteopathic medicine and surgery, a physician assistant
8 licensed under Code chapter 148C, or an advanced registered
9 nurse practitioner licensed pursuant to Code chapter 152 or
10 152E.

11 "Medical cannabis" means any species of the genus cannabis
12 plant, or any mixture or preparation of them, including whole
13 plant extracts and resins.

14 "Medical cannabis dispensary" means an entity licensed under
15 the bill that acquires medical cannabis from a medical cannabis
16 manufacturer in this state for the purpose of dispensing
17 medical cannabis in this state pursuant to the provisions of
18 the bill.

19 "Medical cannabis manufacturer" means an entity licensed
20 by the department to manufacture and to possess, cultivate,
21 transport, or supply medical cannabis pursuant to the
22 provisions of the bill.

23 "Primary caregiver" means a person, at least 18 years of age,
24 who has been designated by a patient's health care practitioner
25 or a person having custody of a patient, as a necessary
26 caretaker taking responsibility for managing the well-being
27 of the patient with respect to the use of medical cannabis
28 pursuant to the bill.

29 "Written certification" means a document signed by a health
30 care practitioner, with whom the patient has established a
31 patient-provider relationship, which states that the patient
32 has a debilitating medical condition and provides any other
33 relevant information.

34 HEALTH CARE PRACTITIONER CERTIFICATION. The bill provides
35 that prior to a patient's submission of an application

1 for a medical cannabis registration card, if a health care
2 practitioner determines that the patient whom the health
3 care practitioner has examined and treated suffers from a
4 debilitating medical condition, the health care practitioner
5 may provide the patient with a written certification of that
6 diagnosis. If the health care practitioner provides the
7 written certification, the practitioner must also provide
8 explanatory information to the patient about the therapeutic
9 use of medical cannabis, and if the patient continues to suffer
10 from a debilitating medical condition, issue the patient a new
11 certification of that diagnosis on an annual basis.

12 MEDICAL CANNABIS REGISTRATION CARD — PATIENT AND PRIMARY
13 CAREGIVER. The department may approve the issuance of a
14 medical cannabis registration card by the department of
15 transportation to a patient who is at least 18 years of age and
16 is a permanent resident of this state, who submits a written
17 certification by the patient's health care practitioner to
18 the department, who submits an application to the department
19 of public health with certain information, and who submits
20 a registration card fee to the department. The department
21 of public health may also approve the issuance of a medical
22 cannabis registration card by the department of transportation
23 to a primary caregiver who is at least 18 years of age, who
24 submits a written certification by the patient's health care
25 practitioner to the department on behalf of the patient,
26 and submits an application to the department with certain
27 information. A medical cannabis registration card expires one
28 year after the date of issuance and may be renewed.

29 MEDICAL ADVISORY BOARD. The director of public health is
30 directed to establish a medical advisory board, no later than
31 August 15, 2015, to consist of eight practitioners representing
32 the fields of neurology, pain management, gastroenterology,
33 oncology, psychiatry, infectious disease, family medicine,
34 and pharmacy, and three patients with valid medical cannabis
35 registration cards. The practitioners shall be nationally

1 board-certified in their area of specialty and knowledgeable
2 about the use of medical cannabis. The duties of the board
3 include reviewing and recommending to the department for
4 approval additional chronic or debilitating diseases or
5 medical conditions or their treatments as debilitating medical
6 conditions that qualify for the use of medical cannabis under
7 the bill, accepting and reviewing petitions to add chronic or
8 debilitating diseases or medical conditions or their treatments
9 to the list of debilitating medical conditions that qualify
10 for the use of medical cannabis under the bill, and advising
11 the department regarding the location of medical cannabis
12 dispensaries, the form and quantity of allowable medical
13 cannabis to be dispensed to a patient or primary caregiver, and
14 the general oversight of medical cannabis manufacturers and
15 medical cannabis dispensaries.

16 MEDICAL CANNABIS MANUFACTURER LICENSURE. The bill
17 requires the department to license four medical cannabis
18 manufacturers for the manufacture of medical cannabis within
19 this state by December 1, 2015, and to license new medical
20 cannabis manufacturers or relicense existing medical cannabis
21 manufacturers by December 1 of each year. Information
22 submitted during the application process is confidential until
23 the medical cannabis manufacturer is licensed by the department
24 unless otherwise protected from disclosure under state or
25 federal law. As a condition for licensure, a medical cannabis
26 manufacturer must agree to begin supplying medical cannabis to
27 medical cannabis dispensaries in this state by July 1, 2016.
28 The department is directed to consider several factors in
29 determining whether to license a medical cannabis manufacturer
30 including technical expertise, employee qualifications,
31 financial stability, security measures, and production
32 needs and capacity. Each medical cannabis manufacturer is
33 required to contract with the state hygienic laboratory at the
34 university of Iowa to test the medical cannabis produced by
35 the manufacturer and to report testing results to the medical

1 cannabis manufacturer. Each entity submitting an application
2 for licensure shall pay a nonrefundable application fee of
3 \$7,500.

4 MEDICAL CANNABIS MANUFACTURERS. The bill provides that
5 operating documents of a medical cannabis manufacturer shall
6 include procedures for oversight and recordkeeping activities
7 of the medical cannabis manufacturer and security measures
8 undertaken by the medical cannabis manufacturer. A medical
9 cannabis manufacturer is prohibited from sharing office
10 space with, referring patients to, or having a financial
11 relationship with a health care practitioner; permitting any
12 person to consume medical cannabis on the property of the
13 medical cannabis manufacturer; employing a person who is under
14 18 years of age or who has been convicted of a disqualifying
15 felony offense; and from operating in any location, whether
16 for dispensing or for manufacturing, cultivating, harvesting,
17 packaging, and processing, within 1,000 feet of a public or
18 private school existing before the date of the medical cannabis
19 manufacturer's licensure. A medical cannabis manufacturer
20 shall be subject to reasonable inspection and shall be subject
21 to reasonable restrictions relating to signage, marketing,
22 display, and advertising of the medical cannabis.

23 A medical cannabis manufacturer is required to provide a
24 reliable and ongoing supply of medical cannabis to medical
25 cannabis dispensaries pursuant to the provisions of the bill,
26 and all manufacturing, cultivating, harvesting, packaging, and
27 processing of medical cannabis is required to take place in an
28 enclosed, locked facility at a physical address provided to the
29 department during the licensure process.

30 MEDICAL CANNABIS DISPENSARIES. The bill requires the
31 department to license by April 1, 2016, 12 medical cannabis
32 dispensaries to dispense medical cannabis within this state
33 consistent with the provisions of the bill. The department
34 is required to license new medical cannabis dispensaries or
35 relicense the existing medical cannabis manufacturers by

1 December 1 of each year. Information submitted during the
2 application process shall be confidential until the medical
3 cannabis dispensary is licensed by the department unless
4 otherwise protected from disclosure under state or federal law.
5 As a condition for licensure, a medical cannabis dispensary
6 must agree to begin supplying medical cannabis to patients by
7 July 1, 2016.

8 The department is directed to consider several factors in
9 determining whether to license a medical cannabis dispensary
10 including technical expertise, employee qualifications,
11 financial stability, security measures, and the projection
12 and ongoing assessment of fees for the purchase of medical
13 cannabis on patients with debilitating medical conditions.
14 Each entity submitting an application for licensure shall pay a
15 nonrefundable application fee of five thousand dollars to the
16 department.

17 The bill provides that medical cannabis dispensaries shall
18 be located based on geographical need throughout the state
19 to improve patient access. A medical cannabis dispensary
20 may dispense medical cannabis pursuant to the provisions of
21 this chapter but shall not dispense any medical cannabis in a
22 form or quantity other than the form or quantity allowed by
23 the department pursuant to rule. The operating documents of
24 a medical cannabis dispensary shall include procedures for
25 the oversight and record keeping activities of the medical
26 cannabis dispensary and security measures undertaken by the
27 medical cannabis dispensary to deter and prevent the theft
28 of medical cannabis and unauthorized entrance into areas
29 containing medical cannabis. A medical cannabis dispensary is
30 prohibited from sharing office space with, referring patients
31 to, or having any financial relationship with a health care
32 practitioner; permitting any person to consume medical cannabis
33 on the property of the medical cannabis dispensary; employing
34 a person who is under eighteen years of age or who has been
35 convicted of a disqualifying felony offense; and from operating

1 in any location within 1,000 feet of a public or private school
2 existing before the date of the medical cannabis dispensary's
3 licensure by the department. A medical cannabis dispensary
4 shall be subject to reasonable inspection and to reasonable
5 restrictions set by the department relating to signage,
6 marketing, display, and advertising of medical cannabis.

7 Prior to dispensing of any medical cannabis, a medical
8 cannabis dispensary is required to verify that the medical
9 cannabis dispensary has received a valid medical cannabis
10 registration card from a patient or a patient's primary
11 caregiver, if applicable, assign a tracking number to any
12 medical cannabis dispensed from the medical cannabis dispensary
13 and follow proper packaging procedures in compliance with
14 federal law.

15 FEES. Medical cannabis registration card fees and medical
16 cannabis manufacturer and medical cannabis dispensary
17 application and annual fees collected by the department
18 pursuant to this chapter shall be retained by the department,
19 shall be considered repayment receipts as defined in Code
20 section 8.2, and shall be used for the purpose of regulating
21 medical cannabis manufacturers and medical cannabis
22 dispensaries and for other expenses necessary for the
23 administration of this Code chapter.

24 CONFIDENTIALITY. The department is required to maintain
25 a confidential file of the names of each patient and primary
26 caregiver issued a medical cannabis registration card.
27 Individual names contained in the file shall be confidential
28 and shall not be subject to disclosure, except that information
29 in the confidential file may be released on an individual
30 basis to authorized employees or agents of the department,
31 the department of transportation, and a medical cannabis
32 dispensary as necessary to perform their duties and to
33 authorized employees of state or local law enforcement agencies
34 for the purpose of verifying that a person is lawfully in
35 possession of a medical cannabis registration card. Release

1 of information must also be consistent with federal Health
2 Insurance Portability and Accountability Act regulations.

3 **ADDITIONAL DEPARTMENT DUTIES — RULES.** The bill requires
4 the department to adopt rules relating to the manner in which
5 the department shall consider applications for new and renewal
6 medical cannabis registration cards, identify criteria and
7 set forth procedures for including additional chronic or
8 debilitating diseases or medical conditions or their medical
9 treatments on the list of debilitating medical conditions,
10 establish the form and quantity of medical cannabis allowed to
11 be dispensed to a patient or primary caregiver in the form and
12 quantity appropriate to serve the medical needs of the patient
13 with the debilitating medical condition, establish requirements
14 for the licensure of medical cannabis manufacturers and medical
15 cannabis dispensaries, develop a dispensing system for medical
16 cannabis within this state that follows certain requirements,
17 establish and collect annual fees from medical cannabis
18 manufacturers and medical cannabis dispensaries to cover
19 the costs associated with regulating and inspecting medical
20 cannabis manufacturers and medical cannabis dispensaries, and
21 specify and implement procedures that address public safety
22 including security procedures and product quality, safety, and
23 labeling.

24 **RECIPROCITY.** The bill provides that a valid medical
25 cannabis registration card, or its equivalent, issued under
26 the laws of another state that allows an out-of-state patient
27 to possess or use medical cannabis in the jurisdiction of
28 issuance shall have the same force and effect as a valid
29 medical cannabis card issued under the bill, except that an
30 out-of-state patient in this state shall not obtain medical
31 cannabis from a medical cannabis dispensary in this state.

32 **USE OF MEDICAL CANNABIS — SMOKING PROHIBITED.** The bill
33 provides that a patient shall not consume the medical cannabis
34 by smoking the medical cannabis.

35 **USE OF MEDICAL CANNABIS — AFFIRMATIVE DEFENSES.** The bill

1 provides prosecution immunity for a health care practitioner,
2 a medical cannabis manufacturer, and a medical cannabis
3 dispensary, including any authorized agents or employees of the
4 health care practitioner, medical cannabis manufacturer, and
5 medical cannabis dispensary, for activities undertaken by the
6 health care practitioner, medical cannabis manufacturer, and
7 medical cannabis dispensary pursuant to the provisions of the
8 bill.

9 The bill provides that in a prosecution for the unlawful
10 possession of marijuana under the laws of this state,
11 including but not limited to Code chapters 124 (controlled
12 substances) and 453B (excise tax on unlawful dealing in
13 certain substances), it is an affirmative and complete
14 defense to the prosecution that the patient has been diagnosed
15 with a debilitating medical condition, used or possessed
16 medical cannabis pursuant to a certification by a health
17 care practitioner, and, for a patient age 18 or older, is
18 in possession of a valid medical cannabis registration
19 card. The bill provides a similar affirmative defense for a
20 primary caretaker of a patient who has been diagnosed with a
21 debilitating medical condition who is in possession of a valid
22 medical cannabis registration card, and where the primary
23 caregiver's possession of the medical cannabis is on behalf of
24 the patient and for the patient's use only.

25 The bill amends Code section 124.401, relating to prohibited
26 acts involving controlled substances, to provide that it is
27 lawful for a person to knowingly or intentionally recommend,
28 possess, use, dispense, deliver, transport, or administer
29 medical cannabis if the recommendation, possession, use,
30 dispensing, delivery, transporting, or administering is in
31 accordance with the provisions of the bill.

32 The bill provides that an agency of this state or a political
33 subdivision thereof, including any law enforcement agency,
34 shall not remove or initiate proceedings to remove a patient
35 under the age of 18 from the home of a parent based solely upon

1 the parent's or patient's possession or use of medical cannabis
2 as authorized under the bill.

3 PENALTIES. The bill provides that a person who knowingly or
4 intentionally possesses or uses medical cannabis in violation
5 of the requirements of the bill is subject to the penalties
6 provided under Code chapters 124 and 453B. In addition, a
7 medical cannabis manufacturer or a medical cannabis dispensary
8 shall be assessed a civil penalty of up to \$1,000 per violation
9 for any violation of the bill in addition to any other
10 applicable penalties.

11 EMERGENCY RULES. The bill provides that the department
12 may adopt emergency rules and the rules shall be effective
13 immediately upon filing unless a later date is specified in the
14 rules.

15 TRANSITION PROVISIONS. The bill provides that a medical
16 cannabis registration card issued under Code chapter 124D
17 (medical cannabidiol Act) prior to July 1, 2015, shall remain
18 effective and continues in effect as issued for the 12-month
19 period following its issuance.

20 REPORTS. The bill requires the university of Iowa Carver
21 college of medicine and college of pharmacy to, on or before
22 July 1 of each year, beginning July 1, 2016, submit a report
23 detailing the scientific literature, studies, and clinical
24 trials regarding the use of medical cannabis on patients
25 diagnosed with debilitating medical conditions as defined in
26 the bill to the department of public health and the general
27 assembly.

28 REPEAL. The bill repeals Code chapter 124D, the medical
29 cannabidiol Act.