

Senate File 205 - Introduced

SENATE FILE 205

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A BILL FOR

1 An Act relating to the medical cannabis Act, reclassifying
2 marijuana, including tetrahydrocannabinols, from a
3 schedule I controlled substance to a schedule II controlled
4 substance, and providing for civil and criminal penalties
5 and fees.

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

1 Section 1. Section 124.204, subsection 4, paragraphs m and
2 u, Code 2017, are amended by striking the paragraphs.

3 Sec. 2. Section 124.204, subsection 7, Code 2017, is amended
4 by striking the subsection.

5 Sec. 3. Section 124.206, subsection 7, Code 2017, is amended
6 to read as follows:

7 7. *Hallucinogenic substances.* Unless specifically excepted
8 or unless listed in another schedule, any material, compound,
9 mixture, or preparation which contains any quantity of the
10 following substances, or, for purposes of paragraphs "a" and
11 "b", which contains any of its salts, isomers, or salts of
12 isomers whenever the existence of such salts, isomers, or salts
13 of isomers is possible within the specific chemical designation
14 (for purposes of this paragraph only, the term "isomer" includes
15 the optical, positional, and geometric isomers):

16 a. ~~Marijuana when used for medicinal purposes pursuant to~~
17 ~~rules of the board.~~

18 b. Tetrahydrocannabinols, meaning tetrahydrocannabinols
19 naturally contained in a plant of the genus Cannabis (Cannabis
20 plant) as well as synthetic equivalents of the substances
21 contained in the Cannabis plant, or in the resinous extractives
22 of such plant, and synthetic substances, derivatives, and their
23 isomers with similar chemical structure and pharmacological
24 activity to those substances contained in the plant, such as
25 the following:

26 (1) 1 cis or trans tetrahydrocannabinol, and their optical
27 isomers.

28 (2) 6 cis or trans tetrahydrocannabinol, and their optical
29 isomers.

30 (3) 3,4 cis or trans tetrahydrocannabinol, and their
31 optical isomers. (Since nomenclature of these substances
32 is not internationally standardized, compounds of these
33 structures, regardless of numerical designation of atomic
34 positions covered.)

35 ~~b.~~ c. Nabilone [another name for nabilone: (+-) -

1 trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-
2 hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

3 Sec. 4. Section 124.401, subsection 5, unnumbered paragraph
4 3, Code 2017, is amended to read as follows:

5 A person may knowingly or intentionally recommend the use
6 of, process, produce, package, possess, cultivate, harvest,
7 use, dispense, deliver, transport, supply, or administer
8 ~~cannabidiol~~ medical cannabis if the recommendation, processing,
9 production, packaging, possession, use, cultivating,
10 harvesting, dispensing, delivery, transporting, supplying, or
11 administering is in accordance with the provisions of chapter
12 ~~124D~~ 124E. For purposes of this paragraph, "~~cannabidiol~~"
13 "medical cannabis" means the same as defined in section ~~124D.2~~
14 124E.2.

15 Sec. 5. NEW SECTION. 124E.1 Short title.

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

18 Sec. 6. NEW SECTION. 124E.2 Definitions.

19 As used in this chapter:

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

22 a. Cancer.

23 b. Multiple sclerosis.

24 c. Epilepsy.

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

26 e. Glaucoma.

27 f. Hepatitis C.

28 g. Crohn's disease or ulcerative colitis.

29 h. Amyotrophic lateral sclerosis.

30 i. Ehlers-danlos syndrome.

31 j. Post-traumatic stress disorder.

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

35 l. Any other chronic or debilitating disease or medical

1 condition or its medical treatment approved by the department
2 pursuant to rule.

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

4 3. "*Disqualifying felony offense*" means a violation under
5 federal or state law of a felony offense, which has as an
6 element the possession, use, or distribution of a controlled
7 substance, as defined in 21 U.S.C. §802(6).

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

11 5. "*Health care practitioner*" means an individual licensed
12 under chapter 148 to practice medicine and surgery or
13 osteopathic medicine and surgery, a physician assistant
14 licensed under chapter 148C, or an advanced registered nurse
15 practitioner licensed pursuant to chapter 152 or 152E.

16 6. "*Medical cannabis*" means any species of the genus
17 Cannabis plant, or any mixture or preparation of them,
18 including whole plant extracts and resins.

19 7. "*Medical cannabis dispensary*" means an entity licensed
20 by the department that acquires medical cannabis from a
21 medical cannabis manufacturer in this state for the purpose
22 of dispensing medical cannabis in this state pursuant to this
23 chapter.

24 8. "*Medical cannabis manufacturer*" means an entity licensed
25 by the department to manufacture and to possess, cultivate,
26 harvest, transport, package, process, or supply medical
27 cannabis pursuant to the provisions of this chapter.

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

34 10. "*Written certification*" means a document signed by a
35 health care practitioner, with whom the patient has established

1 a patient-provider relationship, which states that the patient
2 has a debilitating medical condition and identifies that
3 condition and provides any other relevant information.

4 Sec. 7. NEW SECTION. **124E.3 Health care practitioner**
5 **certification — duties.**

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

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

15 b. Provide explanatory information as provided by the
16 department to the patient about the therapeutic use of medical
17 cannabis.

18 c. Determine, on an annual basis, if the patient continues
19 to suffer from a debilitating medical condition and, if so,
20 issue the patient a new certification of that diagnosis.

21 d. Otherwise comply with all requirements established by the
22 department pursuant to rule.

23 2. A health care practitioner may provide, but has no duty
24 to provide, a written certification pursuant to this section.

25 Sec. 8. NEW SECTION. **124E.4 Medical cannabis registration**
26 **card.**

27 1. *Issuance to patient.* The department may approve the
28 issuance of a medical cannabis registration card by the
29 department of transportation to a patient who:

30 a. Is at least eighteen years of age.

31 b. Is a permanent resident of this state.

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

35 d. Submits an application to the department, on a form

1 created by the department, in consultation with the department
2 of transportation, that contains all of the following:

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

5 (2) A copy of the patient's valid photograph
6 identification.

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

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

12 (5) Any other information required by rule.

13 e. Submits a medical cannabis registration card fee of one
14 hundred dollars to the department. If the patient attests to
15 receiving social security disability benefits, supplemental
16 security insurance payments, or being enrolled in medical
17 assistance, the fee shall be twenty-five dollars.

18 2. *Patient card contents.* A medical cannabis registration
19 card issued to a patient by the department of transportation
20 pursuant to subsection 1 shall contain, at a minimum, all of
21 the following:

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

24 b. The patient's photograph.

25 c. The date of issuance and expiration of the registration
26 card.

27 d. Any other information required by rule.

28 3. *Issuance to primary caregiver.* For a patient in a
29 primary caregiver's care, the department may approve the
30 issuance of a medical cannabis registration card by the
31 department of transportation to the primary caregiver who:

32 a. Is at least eighteen years of age.

33 b. Submits a written certification to the department signed
34 by the patient's health care practitioner that the patient in
35 the primary caregiver's care is suffering from a debilitating

1 medical condition.

2 *c.* Submits an application to the department, on a form
3 created by the department, in consultation with the department
4 of transportation, that contains all of the following:

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

7 (2) The patient's full name.

8 (3) A copy of the primary caregiver's valid photograph
9 identification.

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

12 (5) Any other information required by rule.

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

15 4. *Primary caregiver card contents.* A medical cannabis
16 registration card issued by the department of transportation to
17 a primary caregiver pursuant to subsection 3 shall contain, at
18 a minimum, all of the following:

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

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

22 *c.* The date of issuance and expiration of the registration
23 card.

24 *d.* The registration card number of each patient in the
25 primary caregiver's care. If the patient in the primary
26 caregiver's care is under the age of eighteen, the full name of
27 the patient's parent or legal guardian.

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

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

32 6. *Card issuance — department of transportation.* The
33 department may enter into a chapter 28E agreement with the
34 department of transportation to facilitate the issuance of
35 medical cannabis registration cards pursuant to subsections 1

1 and 3.

2 Sec. 9. NEW SECTION. 124E.5 Medical advisory council—
3 duties.

4 1. No later than August 15, 2017, the director of public
5 health shall establish a medical advisory council consisting of
6 nine practitioners representing the fields of neurology, pain
7 management, gastroenterology, oncology, psychiatry, pediatrics,
8 infectious disease, family medicine, and pharmacy, and three
9 patients with valid medical cannabis registration cards. The
10 practitioners shall be nationally board-certified in their
11 area of specialty and knowledgeable about the use of medical
12 cannabis.

13 2. A quorum of the advisory council shall consist of seven
14 members.

15 3. The duties of the advisory council shall include but not
16 be limited to the following:

17 a. Reviewing and recommending to the department for
18 approval additional chronic or debilitating diseases or
19 medical conditions or their treatments as debilitating medical
20 conditions that qualify for the use of medical cannabis under
21 this chapter.

22 b. Accepting and reviewing petitions to add chronic or
23 debilitating diseases or medical conditions or their medical
24 treatments to the list of debilitating medical conditions that
25 qualify for the use of medical cannabis under this chapter.

26 c. Advising the department regarding the location of
27 medical cannabis dispensaries throughout the state, the form
28 and quantity of allowable medical cannabis to be dispensed
29 to a patient or primary caregiver, and the general oversight
30 of medical cannabis manufacturers and medical cannabis
31 dispensaries in this state.

32 d. Convening at least twice per year to conduct public
33 hearings and to review and recommend for approval petitions,
34 which shall be maintained as confidential personal health
35 information, to add chronic or debilitating diseases or

1 medical conditions or their medical treatments to the list of
2 debilitating medical conditions that qualify for the use of
3 medical cannabis under this chapter.

4 Sec. 10. NEW SECTION. 124E.6 **Medical cannabis manufacturer**
5 **licensure.**

6 1. *a.* The department shall license four medical cannabis
7 manufacturers to manufacture and to possess, cultivate,
8 harvest, transport, package, process, or supply medical
9 cannabis within this state consistent with the provisions of
10 this chapter by December 1, 2017. The department shall license
11 new medical cannabis manufacturers or relicense the existing
12 medical cannabis manufacturers by December 1 of each year.

13 *b.* Information submitted during the application process
14 shall be confidential until the medical cannabis manufacturer
15 is licensed by the department unless otherwise protected from
16 disclosure under state or federal law.

17 2. As a condition for licensure, a medical cannabis
18 manufacturer must agree to begin supplying medical cannabis to
19 medical cannabis dispensaries in this state by July 1, 2018.

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

22 *a.* The technical expertise of the medical cannabis
23 manufacturer regarding medical cannabis.

24 *b.* The qualifications of the medical cannabis manufacturer's
25 employees.

26 *c.* The long-term financial stability of the medical cannabis
27 manufacturer.

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

30 *e.* Whether the medical cannabis manufacturer has
31 demonstrated an ability to meet certain medical cannabis
32 production needs for medical use regarding the range of
33 recommended dosages for each debilitating medical condition,
34 the range of chemical compositions of any plant of the genus
35 cannabis that will likely be medically beneficial for each

1 of the debilitating medical conditions, and the form of the
2 medical cannabis in the manner determined by the department
3 pursuant to rule.

4 *f.* The medical cannabis manufacturer's projection of and
5 ongoing assessment of fees on patients with debilitating
6 medical conditions.

7 4. The department shall require each medical cannabis
8 manufacturer to contract with the state hygienic laboratory
9 at the university of Iowa in Iowa City to test the medical
10 cannabis produced by the manufacturer as provided in section
11 124E.7. The department shall require that the laboratory
12 report testing results to the manufacturer in a manner
13 determined by the department pursuant to rule.

14 5. Each entity submitting an application for licensure
15 as a medical cannabis manufacturer shall pay a nonrefundable
16 application fee of seven thousand five hundred dollars to the
17 department.

18 Sec. 11. NEW SECTION. 124E.7 **Medical cannabis**
19 **manufacturers.**

20 1. A medical cannabis manufacturer shall contract with the
21 state hygienic laboratory at the university of Iowa in Iowa
22 City for purposes of testing the medical cannabis manufactured
23 by the medical cannabis manufacturer as to content,
24 contamination, and consistency. The cost of all laboratory
25 testing shall be paid by the medical cannabis manufacturer.

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

28 *a.* Procedures for the oversight of the medical cannabis
29 manufacturer and procedures to ensure accurate recordkeeping.

30 *b.* Procedures for the implementation of appropriate security
31 measures to deter and prevent the theft of medical cannabis and
32 unauthorized entrance into areas containing medical cannabis.

33 3. A medical cannabis manufacturer shall implement security
34 requirements, including requirements for protection of each
35 location by a fully operational security alarm system, facility

1 access controls, perimeter intrusion detection systems, and a
2 personnel identification system.

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

6 5. A medical cannabis manufacturer shall not permit any
7 person to consume medical cannabis on the property of the
8 medical cannabis manufacturer.

9 6. A medical cannabis manufacturer is subject to reasonable
10 inspection by the department.

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

18 8. A medical cannabis manufacturer shall not operate in any
19 location, whether for manufacturing, possessing, cultivating,
20 harvesting, transporting, packaging, processing, or supplying
21 within one thousand feet of a public or private school existing
22 before the date of the medical cannabis manufacturer's
23 licensure by the department.

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

28 10. *a.* A medical cannabis manufacturer shall provide a
29 reliable and ongoing supply of medical cannabis to medical
30 cannabis dispensaries pursuant to this chapter.

31 *b.* All manufacturing, cultivating, harvesting, packaging,
32 and processing of medical cannabis shall take place in an
33 enclosed, locked facility at a physical address provided to the
34 department during the licensure process.

35 *c.* A medical cannabis manufacturer shall not manufacture

1 edible medical cannabis products utilizing food coloring.

2 Sec. 12. NEW SECTION. **124E.8 Medical cannabis dispensary**
3 **licensure.**

4 1. *a.* The department shall license by April 1, 2018, twelve
5 medical cannabis dispensaries to dispense medical cannabis
6 within this state consistent with the provisions of this
7 chapter. The department shall license new medical cannabis
8 dispensaries or relicense the existing medical cannabis
9 manufacturers by December 1 of each year.

10 *b.* Information submitted during the application process
11 shall be confidential until the medical cannabis dispensary
12 is licensed by the department unless otherwise protected from
13 disclosure under state or federal law.

14 2. As a condition for licensure, a medical cannabis
15 dispensary must agree to begin supplying medical cannabis to
16 patients by July 1, 2018.

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

19 *a.* The technical expertise of the medical cannabis
20 dispensary regarding medical cannabis.

21 *b.* The qualifications of the medical cannabis dispensary's
22 employees.

23 *c.* The long-term financial stability of the medical cannabis
24 dispensary.

25 *d.* The ability to provide appropriate security measures on
26 the premises of the medical cannabis dispensary.

27 *e.* The medical cannabis dispensary's projection and ongoing
28 assessment of fees for the purchase of medical cannabis on
29 patients with debilitating medical conditions.

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

33 Sec. 13. NEW SECTION. **124E.9 Medical cannabis dispensaries.**

34 1. *a.* The medical cannabis dispensaries shall be located
35 based on geographical need throughout the state to improve

1 patient access.

2 *b.* A medical cannabis dispensary may dispense medical
3 cannabis pursuant to the provisions of this chapter but shall
4 not dispense any medical cannabis in a form or quantity other
5 than the form or quantity allowed by the department pursuant
6 to rule.

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

9 *a.* Procedures for the oversight of the medical cannabis
10 dispensary and procedures to ensure accurate recordkeeping.

11 *b.* Procedures for the implementation of appropriate security
12 measures to deter and prevent the theft of medical cannabis and
13 unauthorized entrance into areas containing medical cannabis.

14 3. A medical cannabis dispensary shall implement security
15 requirements, including requirements for protection by a fully
16 operational security alarm system, facility access controls,
17 perimeter intrusion detection systems, and a personnel
18 identification system.

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

22 5. A medical cannabis dispensary shall not permit any person
23 to consume medical cannabis on the property of the medical
24 cannabis dispensary.

25 6. A medical cannabis dispensary is subject to reasonable
26 inspection by the department.

27 7. A medical cannabis dispensary shall not employ a
28 person who is under eighteen years of age or who has been
29 convicted of a disqualifying felony offense. An employee
30 of a medical cannabis dispensary shall be subject to a
31 background investigation conducted by the division of criminal
32 investigation of the department of public safety and a national
33 criminal history background check.

34 8. A medical cannabis dispensary shall not operate in any
35 location within one thousand feet of a public or private school

1 existing before the date of the medical cannabis dispensary's
2 licensure by the department.

3 9. A medical cannabis dispensary shall comply with
4 reasonable restrictions set by the department relating to
5 signage, marketing, display, and advertising of medical
6 cannabis.

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

9 a. Verify that the medical cannabis dispensary has received
10 a valid medical cannabis registration card from a patient or a
11 patient's primary caregiver, if applicable.

12 b. Assign a tracking number to any medical cannabis
13 dispensed from the medical cannabis dispensary.

14 c. (1) Properly package medical cannabis in compliance with
15 federal law regarding child resistant packaging and exemptions
16 for packaging for elderly patients, and label medical cannabis
17 with a list of all active ingredients and individually
18 identifying information, including all of the following:

19 (a) The name and date of birth of the patient and the
20 patient's primary caregiver, if appropriate.

21 (b) The medical cannabis registration card numbers of the
22 patient and the patient's primary caregiver, if applicable.

23 (c) The chemical composition of the medical cannabis.

24 (2) Proper packaging of medical cannabis shall include but
25 not be limited to all of the following:

26 (a) Warning labels regarding the use of medical cannabis by
27 a woman during pregnancy and while breastfeeding.

28 (b) Clearly labeled packaging indicating that an edible
29 medical cannabis product contains medical cannabis and which
30 packaging shall not imitate candy products or in any way make
31 the product marketable to children.

32 11. A medical cannabis dispensary shall employ a pharmacist
33 licensed pursuant to chapter 155A.

34 Sec. 14. NEW SECTION. 124E.10 Fees.

35 Medical cannabis registration card fees and medical cannabis

1 manufacturer and medical cannabis dispensary application
2 and annual fees collected by the department pursuant to
3 this chapter shall be retained by the department, shall be
4 considered repayment receipts as defined in section 8.2, and
5 shall be used for the purpose of regulating medical cannabis
6 manufacturers and medical cannabis dispensaries and for other
7 expenses necessary for the administration of this chapter.

8 Sec. 15. NEW SECTION. 124E.11 Department duties — rules.

9 1. a. The department shall maintain a confidential file
10 of the names of each patient to or for whom the department
11 issues a medical cannabis registration card and the name of
12 each primary caregiver to whom the department issues a medical
13 cannabis registration card under section 124E.4.

14 b. Individual names contained in the file shall be
15 confidential and shall not be subject to disclosure, except as
16 provided in subparagraph (1).

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

20 (a) To authorized employees or agents of the department and
21 the department of transportation as necessary to perform the
22 duties of the department and the department of transportation
23 pursuant to this chapter.

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

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

32 (2) Release of information pursuant to subparagraph
33 (1) shall be consistent with the federal Health Insurance
34 Portability and Accountability Act of 1996, Pub. L. No.
35 104-191.

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

4 *a.* Govern the manner in which the department shall consider
5 applications for new and renewal medical cannabis registration
6 cards.

7 *b.* Identify criteria and set forth procedures for
8 including additional chronic or debilitating diseases or
9 medical conditions or their medical treatments on the list of
10 debilitating medical conditions that qualify for the use of
11 medical cannabis. Procedures shall include a petition process
12 and shall allow for public comment and public hearings before
13 the medical advisory council.

14 *c.* Set forth additional chronic or debilitating diseases or
15 medical conditions or their medical treatments for inclusion
16 on the list of debilitating medical conditions that qualify
17 for the use of medical cannabis as recommended by the medical
18 advisory council.

19 *d.* Establish the form and quantity of medical cannabis
20 allowed to be dispensed to a patient or primary caregiver
21 pursuant to this chapter. The form and quantity of medical
22 cannabis shall be appropriate to serve the medical needs of
23 patients with debilitating medical conditions.

24 *e.* Establish requirements for the licensure of medical
25 cannabis manufacturers and medical cannabis dispensaries and
26 set forth procedures for medical cannabis manufacturers and
27 medical cannabis dispensaries to obtain licenses.

28 *f.* Develop a dispensing system for medical cannabis within
29 this state that provides for all of the following:

30 (1) Medical cannabis dispensaries within this state housed
31 on secured grounds and operated by licensed medical cannabis
32 dispensaries.

33 (2) The dispensing of medical cannabis to patients and
34 their primary caregivers to occur at locations designated by
35 the department.

1 *g.* Establish and collect annual fees from medical cannabis
2 manufacturers and medical cannabis dispensaries to cover
3 the costs associated with regulating and inspecting medical
4 cannabis manufacturers and medical cannabis dispensaries.

5 *h.* Specify and implement procedures that address public
6 safety including security procedures and product quality
7 including measures to ensure contaminant-free cultivation of
8 medical cannabis, safety, and labeling.

9 *i.* Establish and implement a real-time, statewide
10 medical cannabis registry management sale tracking system
11 that is available to medical cannabis dispensaries on a
12 twenty-four-hour-day, seven-day-a-week basis for the purpose of
13 verifying that a person is lawfully in possession of a medical
14 cannabis registration card issued pursuant to this chapter
15 and for tracking the date of the sale and quantity of medical
16 cannabis purchased by a patient or a primary caregiver.

17 *j.* Establish and implement a medical cannabis inventory
18 and delivery tracking system to track medical cannabis
19 from production by a medical cannabis manufacturer through
20 dispensing at a medical cannabis dispensary.

21 Sec. 16. NEW SECTION. 124E.12 **Reciprocity.**

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

30 Sec. 17. NEW SECTION. 124E.13 **Use of medical cannabis —**
31 **smoking prohibited.**

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

34 Sec. 18. NEW SECTION. 124E.14 **Use of medical cannabis —**
35 **affirmative defenses.**

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

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

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

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

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

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

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

14 Sec. 19. NEW SECTION. 124E.15 Penalties.

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

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

23 Sec. 20. EMERGENCY RULES. The department may adopt
24 emergency rules under section 17A.4, subsection 3, and section
25 17A.5, subsection 2, paragraph "b", to implement the provisions
26 of this Act and the rules shall be effective immediately upon
27 filing unless a later date is specified in the rules. Any
28 rules adopted in accordance with this section shall also be
29 published as a notice of intended action as provided in section
30 17A.4.

31 Sec. 21. TRANSITION PROVISIONS. A medical cannabis
32 registration card issued under chapter 124D prior to the
33 effective date of this Act remains effective and continues
34 in effect as issued for the twelve-month period following
35 its issuance. This Act does not preclude the permit holder

1 from seeking to renew the permit under this Act prior to the
2 expiration of the twelve-month period.

3 EXPLANATION

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

6 This bill creates the medical cannabis Act, reclassifies
7 marijuana, including tetrahydrocannabinols, from a schedule I
8 controlled substance to a schedule II controlled substance, and
9 provides for civil and criminal penalties and fees.

10 OVERVIEW. The bill allows a patient with a debilitating
11 medical condition who receives written certification from
12 the patient's health care practitioner that the patient has
13 a debilitating medical condition and who submits the written
14 certification along with an application to the department of
15 public health (department) for a medical cannabis registration
16 card to allow for the lawful use of medical cannabis to treat
17 the patient's debilitating medical condition. A patient who
18 is issued a medical cannabis registration card will be able
19 to receive medical cannabis directly from a medical cannabis
20 dispensary operated and licensed in this state.

21 RECLASSIFICATION. The bill reclassifies marijuana,
22 including tetrahydrocannabinols, as a schedule II controlled
23 substance instead of a schedule I controlled substance and
24 strikes references to the authority of the board of pharmacy to
25 adopt rules for the use of marijuana or tetrahydrocannabinols
26 for medicinal purposes.

27 A schedule I controlled substance is a highly addictive
28 substance that has no accepted medical use in the United States
29 and a schedule II controlled substance is a highly addictive
30 substance that has an accepted medical use in the United
31 States. The reclassification of marijuana from a schedule I
32 controlled substance to a schedule II controlled substance
33 would allow a physician to issue a prescription for marijuana
34 under state law. However, federal regulations may conflict
35 with such prescription authority.

1 The penalties remain unchanged for violations involving
2 marijuana under the bill. The penalties under Code section
3 124.401 range from a class "B" felony punishable by up to 50
4 years of confinement to a serious misdemeanor punishable by
5 up to six months of confinement depending on the amount of
6 marijuana involved in the offense.

7 DEFINITIONS. The bill provides the following definitions:

8 "Debilitating medical condition" means cancer, multiple
9 sclerosis, epilepsy, AIDS or HIV, glaucoma, hepatitis C,
10 Crohn's disease or ulcerative colitis, amyotrophic lateral
11 sclerosis, Ehlers-danlos syndrome, post-traumatic stress
12 disorder, severe, chronic pain caused by an underlying medical
13 condition, and any other chronic or debilitating disease or
14 medical condition or its medical treatment approved by the
15 department by rule.

16 "Health care practitioner" means an individual licensed
17 under Code chapter 148 to practice medicine and surgery
18 or osteopathic medicine and surgery, a physician assistant
19 licensed under Code chapter 148C, or an advanced registered
20 nurse practitioner licensed pursuant to Code chapter 152 or
21 152E.

22 "Medical cannabis" means any species of the genus Cannabis
23 plant, or any mixture or preparation of them, including whole
24 plant extracts and resins.

25 "Medical cannabis dispensary" means an entity licensed under
26 the bill that acquires medical cannabis from a medical cannabis
27 manufacturer in this state for the purpose of dispensing
28 medical cannabis in this state pursuant to the bill.

29 "Medical cannabis manufacturer" means an entity licensed
30 by the department to manufacture and to possess, cultivate,
31 harvest, transport, package, process, or supply medical
32 cannabis pursuant to the bill.

33 "Primary caregiver" means a person, at least 18 years of age,
34 who has been designated by a patient's health care practitioner
35 or a person having custody of a patient, as a necessary

1 caretaker taking responsibility for managing the well-being
2 of the patient with respect to the use of medical cannabis
3 pursuant to the bill.

4 "Written certification" means a document signed by a health
5 care practitioner, with whom the patient has established a
6 patient-provider relationship, which states that the patient
7 has a debilitating medical condition and provides any other
8 relevant information.

9 HEALTH CARE PRACTITIONER CERTIFICATION. The bill provides
10 that prior to a patient's submission of an application
11 for a medical cannabis registration card, if a health care
12 practitioner determines that the patient whom the health
13 care practitioner has examined and treated suffers from a
14 debilitating medical condition, the health care practitioner
15 may provide the patient with a written certification of that
16 diagnosis. If the health care practitioner provides the
17 written certification, the practitioner must also provide
18 explanatory information to the patient about the therapeutic
19 use of medical cannabis, and if the patient continues to suffer
20 from a debilitating medical condition, issue the patient a new
21 certification of that diagnosis on an annual basis.

22 MEDICAL CANNABIS REGISTRATION CARD — PATIENT AND PRIMARY
23 CAREGIVER. The department may approve the issuance of a
24 medical cannabis registration card by the department of
25 transportation to a patient who is at least 18 years of age and
26 is a permanent resident of this state, who submits a written
27 certification by the patient's health care practitioner to the
28 department, and who submits an application and a fee to the
29 department of public health with certain information. The
30 department of public health may also approve the issuance of
31 a medical cannabis registration card by the department of
32 transportation to a primary caregiver who is at least 18 years
33 of age, submits a written certification by the patient's health
34 care practitioner to the department on behalf of the patient,
35 and submits an application and a fee to the department with

1 certain information. A medical cannabis registration card
2 expires one year after the date of issuance and may be renewed.
3 MEDICAL ADVISORY COUNCIL. The director of public health is
4 directed to establish a medical advisory council, no later than
5 August 15, 2017, to consist of nine practitioners representing
6 the fields of neurology, pain management, gastroenterology,
7 oncology, psychiatry, infectious disease, family medicine,
8 pediatrics, and pharmacy, and three patients with valid
9 medical cannabis registration cards. The practitioners shall
10 be nationally board-certified in their area of specialty and
11 knowledgeable about the use of medical cannabis. The bill
12 provides for certain duties of the council include reviewing
13 and recommending to the department for approval additional
14 chronic or debilitating diseases or medical conditions or their
15 treatments as debilitating medical conditions that qualify for
16 the use of medical cannabis.

17 MEDICAL CANNABIS MANUFACTURER AND MEDICAL CANNABIS
18 DISPENSARY LICENSURE. The bill requires the department of
19 public health to license four medical cannabis manufacturers
20 and 12 medical cannabis dispensaries by December 1, 2017,
21 and April 1, 2018, respectively, and to license new medical
22 cannabis manufacturers and new medical cannabis dispensaries
23 or relicense existing medical cannabis manufacturers and new
24 medical cannabis dispensaries by December 1 of each year.
25 Information submitted during the application process is
26 confidential until the medical cannabis manufacturer or the
27 medical cannabis dispensary is licensed by the department
28 unless otherwise protected from disclosure under state
29 or federal law. As a condition for licensure, a medical
30 cannabis manufacturer and a medical cannabis dispensary
31 must be operational by July 1, 2018. The department is
32 directed to consider several factors in determining whether
33 to license a medical cannabis manufacturer and a medical
34 cannabis dispensary. Each entity submitting an application for
35 licensure shall pay an application fee to the department.

1 MEDICAL CANNABIS MANUFACTURERS AND MEDICAL CANNABIS
2 DISPENSARIES — ADDITIONAL PROVISIONS. The operating
3 documents of a medical cannabis manufacturer and a medical
4 cannabis dispensary shall include procedures for oversight and
5 recordkeeping activities of the medical cannabis manufacturer
6 and the medical cannabis dispensary and certain security
7 measures undertaken by the medical cannabis manufacturer
8 and the medical cannabis dispensary. A medical cannabis
9 manufacturer and a medical cannabis dispensary are prohibited
10 from sharing office space with, referring patients to,
11 or having a financial relationship with a health care
12 practitioner, permitting any person to consume medical cannabis
13 on the property of the medical cannabis manufacturer or the
14 medical cannabis dispensary, employing a person who is under
15 18 years of age or who has been convicted of a disqualifying
16 felony offense, and from operating in any location within 1,000
17 feet of a public or private school existing before the date
18 of the licensure of the medical cannabis manufacturer or the
19 medical cannabis dispensary. In addition, a medical cannabis
20 manufacturer and a medical cannabis dispensary are subject to
21 reasonable inspection and certain reasonable restrictions.

22 A medical cannabis manufacturer is required to provide a
23 reliable and ongoing supply of medical cannabis to medical
24 cannabis dispensaries and shall not manufacture edible medical
25 cannabis products utilizing food coloring. All manufacturing,
26 cultivating, harvesting, packaging, and processing of medical
27 cannabis is required to take place in an enclosed, locked
28 facility.

29 Prior to dispensing any medical cannabis, a medical cannabis
30 dispensary is required to verify that the medical cannabis
31 dispensary has received a valid medical cannabis registration
32 card from a patient or a patient's primary caregiver, if
33 applicable, assign a tracking number to any medical cannabis
34 dispensed from the medical cannabis dispensary, and properly
35 package and label medical cannabis in compliance with the

1 provisions of the bill and certain federal laws. A medical
2 cannabis dispensary is required to employ an Iowa licensed
3 pharmacist.

4 DEPARTMENT DUTIES — CONFIDENTIALITY. The department is
5 required to maintain a confidential file of the names of
6 each patient and primary caregiver issued a medical cannabis
7 registration card. Individual names contained in the file
8 shall be confidential and shall not be subject to disclosure,
9 except that information in the confidential file may be
10 released on an individual basis to authorized employees or
11 agents of the department, the department of transportation,
12 and a medical cannabis manufacturer as necessary to perform
13 their duties and to authorized employees of state or local law
14 enforcement agencies for the purpose of verifying that a person
15 is lawfully in possession of a medical cannabis registration
16 card. Release of information must also be consistent with
17 federal Health Insurance Portability and Accountability Act
18 regulations.

19 ADDITIONAL DEPARTMENT DUTIES — RULES. The bill requires
20 the department to adopt rules relating to the manner in which
21 the department shall consider applications for new and renewal
22 medical cannabis registration cards, identify criteria and
23 set forth procedures for including additional chronic or
24 debilitating diseases or medical conditions or their medical
25 treatments on the list of debilitating medical conditions,
26 establish the form and quantity of medical cannabis allowed to
27 be dispensed to a patient or primary caregiver in the form and
28 quantity appropriate to serve the medical needs of the patient
29 with the debilitating medical condition, establish requirements
30 for the licensure of medical cannabis manufacturers, develop
31 a dispensing system for medical cannabis within this state
32 that follows certain requirements, establish medical cannabis
33 registration card application and renewal fees, and specify
34 and implement procedures that address public safety including
35 security procedures and product quality, safety, and labeling.

1 RECIPROCITY. The bill provides that a valid medical
2 cannabis registration card, or its equivalent, issued under
3 the laws of another state that allows an out-of-state patient
4 to possess or use medical cannabis in the jurisdiction of
5 issuance shall have the same force and effect as a valid
6 medical cannabis card issued under the bill, except that an
7 out-of-state patient in this state shall not obtain medical
8 cannabis from a medical cannabis dispensary in this state.

9 USE OF MEDICAL CANNABIS — SMOKING PROHIBITED. The bill
10 provides that a patient shall not consume the medical cannabis
11 by smoking the medical cannabis.

12 USE OF MEDICAL CANNABIS — AFFIRMATIVE DEFENSES. The bill
13 provides prosecution immunity for a health care practitioner,
14 a medical cannabis manufacturer, and a medical cannabis
15 dispensary, including any authorized agents or employees of the
16 health care practitioner, medical cannabis manufacturer, and
17 medical cannabis dispensary, for activities undertaken by the
18 health care practitioner, medical cannabis manufacturer, and
19 medical cannabis dispensary pursuant to the provisions of the
20 bill.

21 The bill provides that in a prosecution for the unlawful
22 possession of marijuana under the laws of this state,
23 including but not limited to Code chapters 124 (controlled
24 substances) and 453B (excise tax on unlawful dealing in
25 certain substances), it is an affirmative and complete
26 defense to the prosecution that the patient has been diagnosed
27 with a debilitating medical condition, used or possessed
28 medical cannabis pursuant to a certification by a health
29 care practitioner, and, for a patient age 18 or older, is
30 in possession of a valid medical cannabis registration
31 card. The bill provides a similar affirmative defense for a
32 primary caretaker of a patient who has been diagnosed with a
33 debilitating medical condition who is in possession of a valid
34 medical cannabis registration card, and where the primary
35 caregiver's possession of the medical cannabis is on behalf of

1 the patient and for the patient's use only. The bill provides
2 that an agency of this state or a political subdivision
3 thereof, including any law enforcement agency, shall not remove
4 or initiate proceedings to remove a patient under the age of
5 18 from the home of a parent based solely upon the parent's or
6 patient's possession or use of medical cannabis as authorized
7 under the bill.

8 CONFORMING CODE AMENDMENT. The bill amends Code section
9 124.401, relating to prohibited acts involving controlled
10 substances, to provide that it is lawful for a person to
11 knowingly or intentionally recommend the use of, process,
12 produce, package, possess, cultivate, harvest, use, dispense,
13 deliver, transport, supply, or administer medical cannabis if
14 such action is in accordance with the provisions of the bill.

15 PENALTIES. The bill provides that a person who knowingly or
16 intentionally possesses or uses medical cannabis in violation
17 of the requirements of the bill is subject to the penalties
18 provided under Code chapters 124 and 453B. In addition, a
19 medical cannabis manufacturer or a medical cannabis dispensary
20 shall be assessed a civil penalty of up to \$1,000 per violation
21 for any violation of the bill in addition to any other
22 applicable penalties.

23 EMERGENCY RULES. The bill provides that the department
24 may adopt emergency rules and the rules shall be effective
25 immediately upon filing unless a later date is specified in the
26 rules.

27 TRANSITION PROVISIONS. The bill provides that a medical
28 cannabis registration card issued under Code chapter 124D
29 (medical cannabidiol Act) prior to the effective date of the
30 bill shall remain effective and continues in effect as issued
31 for the 12-month period following its issuance.