

Senate File 2363 - Introduced

SENATE FILE 2363
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3136)

A BILL FOR

1 An Act relating to the medical cannabidiol Act, and including
2 transition provisions.

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

1 Section 1. Section 124E.2, subsection 2, paragraph i, Code
2 2020, is amended to read as follows:

3 ~~i. Untreatable~~ Severe or chronic pain.

4 Sec. 2. Section 124E.2, subsection 2, Code 2020, is amended
5 by adding the following new paragraphs:

6 NEW PARAGRAPH. *j.* Autism.

7 NEW PARAGRAPH. *k.* Post-traumatic stress disorder.

8 Sec. 3. Section 124E.2, subsections 5 and 6, Code 2020, are
9 amended to read as follows:

10 5. "*Health care practitioner*" means an individual licensed
11 under [chapter 148](#) to practice medicine and surgery or
12 osteopathic medicine and surgery, a physician assistant
13 licensed under chapter 148C, a podiatrist licensed under
14 chapter 149, an advanced registered nurse practitioner licensed
15 under chapter 152, or an advanced practice registered nurse
16 licensed under chapter 152E, who is a patient's primary care
17 provider. "~~Health care practitioner~~" shall not include a
18 physician assistant licensed under [chapter 148C](#) or an advanced
19 registered nurse practitioner licensed pursuant to chapter 152
20 or [152E](#).

21 6. "*Medical cannabidiol*" means any pharmaceutical
22 grade cannabinoid found in the plant *Cannabis sativa L.* or
23 *Cannabis indica* or any other preparation thereof ~~that has~~
24 ~~a tetrahydrocannabinol level of no more than three percent~~
25 ~~and that is delivered in a form recommended by the medical~~
26 ~~cannabidiol board, approved by the board of medicine, and~~
27 ~~adopted by the department pursuant to rule.~~

28 Sec. 4. Section 124E.2, subsection 8, Code 2020, is amended
29 by striking the subsection.

30 Sec. 5. NEW SECTION. **124E.3A Health care practitioner**
31 **decertification.**

32 1. The department shall adopt rules to allow a health
33 care practitioner who has issued a written certification to a
34 patient to revoke the certification.

35 2. A medical cannabidiol registration card issued to

1 a patient or primary caregiver on the basis of a written
2 certification that has been revoked pursuant to subsection 1
3 shall not be valid after the date of revocation.

4 3. A patient or primary caregiver in possession of medical
5 cannabidiol after the revocation of a written certification
6 shall not be subject to a penalty under section 124E.16 for
7 thirty days after the revocation. Before the expiration of
8 thirty days after revocation, the patient or primary caregiver
9 shall return any unused medical cannabidiol to a medical
10 cannabidiol dispensary unless the patient has been recertified
11 pursuant to subsection 4.

12 4. A patient whose written certification has been
13 revoked pursuant to subsection 1 may receive a new written
14 certification pursuant to section 124E.3. If a patient
15 receives a new written certification within thirty days of
16 the revocation of the initial certification, the patient
17 or the patient's primary caregiver may retain any medical
18 cannabidiol still in the possession of the patient or the
19 primary caregiver. A patient shall not receive more than two
20 written certifications per year.

21 Sec. 6. Section 124E.4, subsections 1 and 5, Code 2020, are
22 amended to read as follows:

23 1. *Issuance to patient.*

24 ~~a. Subject~~ Except as otherwise provided in paragraph "b",
25 and subject to subsection 7, the department may ~~approve the~~
26 ~~issuance of~~ issue a medical cannabidiol registration card ~~by~~
27 ~~the department of transportation~~ to a patient who:

28 ~~a.~~ (1) Is at least eighteen years of age.

29 ~~b.~~ (2) Is a permanent resident of this state.

30 ~~c.~~ (3) Submits a written certification to the department
31 signed by the patient's health care practitioner that the
32 patient is suffering from a debilitating medical condition.

33 ~~d.~~ (4) Submits an application to the department, on a form
34 created by the department, ~~in consultation with the department~~
35 ~~of transportation,~~ that contains all of the following:

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

3 ~~(2)~~ (b) A copy of the patient's valid photo identification.

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

6 ~~(4)~~ (d) Full name, residence address, date of birth, and
7 telephone number of each primary caregiver of the patient, if
8 any.

9 ~~(5)~~ (e) Any other information required by rule.

10 ~~e.~~ (5) Submits a medical cannabidiol registration card
11 fee of one hundred dollars to the department. If the patient
12 attests to receiving social security disability benefits,
13 supplemental security insurance payments, or being enrolled in
14 the medical assistance program, the fee shall be twenty-five
15 dollars.

16 ~~f. Has not been convicted of a disqualifying felony offense.~~

17 b. Subject to subsection 7, the department may issue a
18 medical cannabidiol registration card to a patient who provides
19 documentation to the department, on a form prescribed by the
20 department, that the patient is receiving hospice care in this
21 state.

22 5. *Expiration date of card.* A medical cannabidiol
23 registration card issued pursuant to [this section](#) shall expire
24 ~~one year~~ two years after the date of issuance and may be
25 renewed.

26 Sec. 7. Section 124E.4, subsection 2, unnumbered paragraph
27 1, Code 2020, is amended to read as follows:

28 A medical cannabidiol registration card issued to a patient
29 by the department ~~of transportation~~ pursuant to [subsection 1](#)
30 shall contain, at a minimum, all of the following:

31 Sec. 8. Section 124E.4, subsection 3, unnumbered paragraph
32 1, Code 2020, is amended to read as follows:

33 For a patient in a primary caregiver's care, subject to
34 subsection 7, the department may ~~approve the issuance of~~ issue
35 a medical cannabidiol registration card ~~by the department of~~

1 ~~transportation~~ to the primary caregiver who:

2 Sec. 9. Section 124E.4, subsection 3, paragraph b,
3 unnumbered paragraph 1, Code 2020, is amended to read as
4 follows:

5 Submits an application to the department, on a form created
6 by the department, ~~in consultation with the department of~~
7 ~~transportation~~, that contains all of the following:

8 Sec. 10. Section 124E.4, subsection 3, paragraph c, Code
9 2020, is amended by striking the paragraph.

10 Sec. 11. Section 124E.4, Code 2020, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 3A. *Issuance to an institution.* The
13 department shall adopt rules for the issuance of a caregiver
14 registration card to an institution, including but not limited
15 to a school, university, nursing home, long-term care facility,
16 correctional facility, or jail, allowing employees of the
17 institution to administer medical cannabidiol to patients in
18 the care of the institution.

19 Sec. 12. Section 124E.4, subsection 4, unnumbered paragraph
20 1, Code 2020, is amended to read as follows:

21 A medical cannabidiol registration card issued by the
22 department ~~of transportation~~ to a primary caregiver pursuant to
23 subsection 3 shall contain, at a minimum, all of the following:

24 Sec. 13. Section 124E.4, subsection 6, Code 2020, is amended
25 by striking the subsection.

26 Sec. 14. Section 124E.5, subsection 2, Code 2020, is amended
27 to read as follows:

28 2. The medical cannabidiol board shall convene at least
29 twice ~~but no more than four times~~ per year.

30 Sec. 15. Section 124E.5, subsection 3, paragraph b, Code
31 2020, is amended to read as follows:

32 b. Making recommendations relating to the removal or
33 addition of debilitating medical conditions to the list of
34 allowable debilitating medical conditions for which the medical
35 use of cannabidiol under [this chapter](#) would be medically

1 beneficial. The department shall adopt rules to modify the
2 list of allowable debilitating medical conditions consistent
3 with recommendations of the board.

4 Sec. 16. Section 124E.5, subsection 4, Code 2020, is amended
5 to read as follows:

6 4. Recommendations made by the medical cannabidiol board
7 pursuant to [subsection 3](#), paragraphs "b" and "e", shall be made
8 to the ~~board of medicine~~ department for consideration, and if
9 approved, shall be adopted by the ~~board of medicine~~ department
10 by rule.

11 Sec. 17. Section 124E.6, subsection 4, Code 2020, is amended
12 to read as follows:

13 4. The department shall require each medical cannabidiol
14 manufacturer to contract with the state hygienic laboratory at
15 the university of Iowa in Iowa City or an independent medical
16 cannabidiol testing laboratory to perform spot-check testing
17 of the medical cannabidiol produced by the manufacturer as
18 provided in [section 124E.7](#). The department shall require that
19 the laboratory report testing results to the manufacturer
20 and the department in a manner determined by the department
21 pursuant to rule.

22 Sec. 18. Section 124E.6, Code 2020, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 6. A medical cannabidiol manufacturer
25 shall pay a renewal fee of two thousand dollars per year to the
26 department to renew a medical cannabidiol manufacturer license
27 in addition to any other requirement imposed by the department
28 by rule.

29 Sec. 19. Section 124E.7, subsection 1, Code 2020, is amended
30 to read as follows:

31 1. A medical cannabidiol manufacturer shall contract with
32 the state hygienic laboratory at the university of Iowa in Iowa
33 City or an independent medical cannabidiol testing laboratory
34 to perform spot-check testing of the medical cannabidiol
35 manufactured by the medical cannabidiol manufacturer as to

1 content, contamination, and consistency. The cost of all
2 laboratory testing shall be paid by the medical cannabidiol
3 manufacturer. The state hygienic laboratory shall not charge
4 a medical cannabidiol manufacturer more than fifty thousand
5 dollars per year to perform spot-check testing.

6 Sec. 20. NEW SECTION. 124E.7A Medical cannabidiol testing
7 laboratory — review committee.

8 1. The department shall establish a committee to review
9 product matrices, testing protocols, and testing procedures
10 used by the state hygienic laboratory at the university of Iowa
11 in Iowa City and any independent medical cannabidiol testing
12 laboratory operating in this state not later than September 1.

13 2. *a.* The committee shall consist of the following members,
14 selected by the department:

15 (1) Three members representing independent medical
16 cannabidiol testing laboratories.

17 (2) Two members who shall be professors at regents
18 institutions with relevant education and experience, as
19 determined by rule of the department, who are not associated
20 with the state hygienic laboratory at the university of Iowa
21 in Iowa City or any independent medical cannabidiol testing
22 laboratory.

23 *b.* Members shall serve for a period of time as determined by
24 rules of the department.

25 3. Prior to implementing any new product matrix, testing
26 protocol, or testing procedure, the state hygienic laboratory
27 at the university of Iowa in Iowa City and any independent
28 medical cannabidiol testing laboratory operating in this
29 state shall submit the new product matrix, testing protocol,
30 or testing procedure to the committee. The committee shall
31 approve or disapprove of the product matrix, testing protocol,
32 or testing procedure by a simple majority vote. The state
33 hygienic laboratory at the university of Iowa in Iowa City
34 and any independent medical cannabidiol testing laboratory
35 operating in this state shall not use a new product matrix,

1 testing protocol, or testing procedure until it has been
2 approved by the committee, and shall not use a new product
3 matrix, testing protocol, or testing procedure that has been
4 disapproved by the committee. Product matrices, testing
5 protocols, and testing procedures in use prior to July 1, 2020,
6 shall not be subject to approval by the committee except as
7 provided in subsection 4.

8 4. A medical cannabidiol manufacturer of a product that has
9 failed a test administered by the state hygienic laboratory
10 at the university of Iowa in Iowa City or an independent
11 medical cannabidiol testing laboratory operating in this state
12 may dispute the result and request that the committee review
13 a product matrix, testing protocol, or testing procedure
14 used in testing the product. The committee shall approve or
15 disapprove of the result, and in the case of disapproval, shall
16 explain the reason for disapproval. A medical cannabidiol
17 manufacturer of a product tested using a product matrix,
18 testing protocol, or testing procedure disapproved of by the
19 committee may request that the product be tested again without
20 the disapproved product matrix, testing protocol, or testing
21 procedure.

22 5. The department shall adopt rules to administer this
23 section.

24 Sec. 21. Section 124E.8, Code 2020, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 5. A medical cannabidiol dispensary shall
27 pay an annual renewal fee of two thousand dollars to the
28 department to renew a medical cannabidiol dispensary license
29 in addition to any other requirement imposed by the department
30 by rule.

31 Sec. 22. Section 124E.9, Code 2020, is amended by adding the
32 following new subsections:

33 NEW SUBSECTION. 13. A medical cannabidiol dispensary
34 may employ a pharmacist or pharmacy technician licensed or
35 registered pursuant to chapter 155A.

1 NEW SUBSECTION. 14. A medical cannabidiol dispensary shall
2 not dispense more than a combined total of twenty-five grams
3 of tetrahydrocannabinol to a patient and the patient's primary
4 caregiver in a ninety-day period.

5 Sec. 23. Section 124E.11, subsection 1, paragraph b,
6 subparagraph (1), subparagraph divisions (a) and (c), Code
7 2020, are amended to read as follows:

8 (a) To authorized employees or agents of the department ~~and~~
9 ~~the department of transportation~~ as necessary to perform the
10 duties of the department ~~and the department of transportation~~
11 pursuant to [this chapter](#).

12 (c) To authorized employees of a medical cannabidiol
13 dispensary, but only for the ~~purpose~~ purposes of verifying
14 that a person is lawfully in possession of a medical
15 cannabidiol registration card issued pursuant to this chapter
16 and that a patient or primary caregiver has not purchased
17 tetrahydrocannabidiol in excess of the amount authorized by
18 this chapter.

19 Sec. 24. Section 124E.11, subsection 1, paragraph b,
20 subparagraph (1), Code 2020, is amended by adding the following
21 new subparagraph division:

22 NEW SUBPARAGRAPH DIVISION. (e) To a health care
23 practitioner, but only for the purpose of monitoring the
24 amount of medical cannabidiol purchased by the health care
25 practitioner's patient or the primary caregiver of a patient.

26 Sec. 25. Section 124E.11, subsection 2, paragraph c, Code
27 2020, is amended to read as follows:

28 c. Establish the form and quantity of medical cannabidiol
29 allowed to be dispensed to a patient or primary caregiver
30 pursuant to [this chapter](#) as appropriate to serve the medical
31 needs of patients with debilitating medical conditions, subject
32 to recommendation by the medical cannabidiol board and approval
33 by the ~~board of medicine~~ department.

34 Sec. 26. Section 124E.12, subsections 6 and 7, Code 2020,
35 are amended to read as follows:

1 6. The department, ~~the department of transportation,~~
2 and any health care practitioner, including any authorized
3 agent or employee thereof, are not subject to any civil
4 or disciplinary penalties by the board of medicine or any
5 business, occupational, or professional licensing board or
6 entity, solely for activities conducted relating to a patient's
7 possession or use of medical cannabidiol as authorized under
8 this chapter. Nothing in **this section** affects a professional
9 licensing board from taking action in response to violations of
10 any other section of law.

11 7. Notwithstanding any law to the contrary, the department,
12 ~~the department of transportation,~~ the governor, or any employee
13 of any state agency shall not be held civilly or criminally
14 liable for any injury, loss of property, personal injury, or
15 death caused by any act or omission while acting within the
16 scope of office or employment as authorized under **this chapter**.

17 Sec. 27. NEW SECTION. **124E.20 Observational effectiveness**
18 **study.**

19 The department shall, upon receipt of funding, conduct
20 an observational effectiveness study in cooperation with
21 patients and health care practitioners and pursuant to rules
22 of the department in order to study the effectiveness of
23 medical cannabidiol in the treatment of debilitating medical
24 conditions.

25 Sec. 28. PROTECTION OF FEDERAL FUNDING. The department
26 of public health shall request guarantees from the agencies
27 of the federal government providing funding to educational
28 and long-term care facilities that facilities with policies
29 allowing patients to possess medical cannabidiol on the grounds
30 of the facilities consistent with chapter 124E or allowing
31 facility staff to administer medical cannabidiol to a patient
32 shall not lose eligibility for any federal funding due to such
33 policies.

34 Sec. 29. TRANSITION PROVISIONS. A medical cannabidiol
35 registration card issued by the department of transportation

1 prior to July 1, 2020, remains effective and continues in
2 effect as issued for the twelve-month period following its
3 issuance.

4 EXPLANATION

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

7 This bill relates to the medical cannabidiol Act.

8 The bill adds autism and post-traumatic stress disorder
9 to the list of debilitating medical conditions for which a
10 written certification for a medical cannabidiol registration
11 card may be issued. The bill replaces "untreatable pain" with
12 "severe or chronic pain" on the list of debilitating medical
13 conditions. The bill adds licensed physician assistants,
14 podiatrists, advanced registered nurse practitioners, and
15 advanced practice registered nurses to the list of health care
16 practitioners that may issue written certifications for a
17 medical cannabidiol registration card.

18 The bill removes the 3 percent tetrahydrocannabinol (THC)
19 limit from the definition of medical cannabidiol. The bill
20 instead prohibits a patient or a primary caregiver from
21 purchasing more than 25 grams of THC in a 90-day period. The
22 bill allows medical cannabidiol dispensaries to access the
23 registry of medical cannabidiol patients to verify that a
24 patient or primary caregiver has not purchased more than 25
25 grams of THC in a 90-day period. The bill also allows a health
26 care practitioner to access the registry of medical cannabidiol
27 patients in order to monitor the amount of medical cannabidiol
28 purchased by the health care practitioners's patient or the
29 primary caregiver of a patient.

30 The bill removes the board of medicine from the process
31 of amending the acceptable form and quantity of medical
32 cannabidiol.

33 The bill directs the department of public health to adopt
34 rules allowing a health care practitioner who has issued a
35 written certification for a medical cannabidiol registration

1 card to a patient to revoke that certification. A medical
2 cannabidiol registration card issued on the basis of a written
3 certification shall no longer be valid. A patient or primary
4 caregiver with a revoked written certification has 30 days
5 to dispose of medical cannabidiol still in the possession of
6 the patient or primary caregiver or to receive another written
7 certification. A patient or primary caregiver shall not
8 receive more than two written certifications per year.

9 The bill removes provisions preventing a patient or a
10 primary caregiver from receiving a medical cannabidiol
11 registration card if the patient or primary caregiver has been
12 convicted of a disqualifying felony.

13 The bill directs the department of public health to
14 adopt rules for issuance of a caregiver medical cannabidiol
15 registration card to an institution, including but not limited
16 to a school, university, nursing home, long-term care facility,
17 correctional facility, or jail, to allow employees of the
18 institution to administer medical cannabidiol to patients
19 in the care of the institution. The bill also permits the
20 department of public health to issue a medical cannabidiol
21 registration card to a patient receiving hospice care in this
22 state without first receiving a written certification from a
23 health care practitioner.

24 The bill changes the expiration date of medical cannabidiol
25 registration cards from one year after the date of issuance to
26 two years after the date of issuance.

27 The bill removes the department of transportation from the
28 process of applying for and receiving a medical cannabidiol
29 registration card and requires the department of public health
30 to issue medical cannabidiol registration cards and makes
31 conforming Code changes. A medical cannabidiol registration
32 card previously issued by the department of transportation
33 prior to July 1, 2020, remains effective and continues in
34 effect for the 12-month period following its issuance.

35 The bill allows the medical cannabidiol board to meet more

1 than four times per year.

2 The bill requires the department of public health to
3 adopt rules to modify the list of debilitating medical
4 conditions for which a certification for a medical cannabidiol
5 registration card may be issued when the medical cannabidiol
6 board recommends such a change. The bill removes the board
7 of medicine from the process of adding debilitating medical
8 conditions to the list of debilitating conditions for which a
9 written certification for a medical cannabidiol registration
10 card may be issued.

11 The bill makes changes with respect to medical cannabidiol
12 manufacturers, medical cannabidiol dispensaries, and medical
13 cannabidiol product testing. A medical cannabidiol testing
14 laboratory must report testing results to the department of
15 public health in addition to the manufacturer of the product
16 being tested. The bill provides that an annual renewal fee
17 for a medical cannabidiol manufacturer license or medical
18 cannabidiol dispensary license shall be \$2,000. The state
19 hygienic laboratory at the university of Iowa in Iowa City
20 shall not charge a medical cannabidiol manufacturer more
21 than \$50,000 per year for the testing of medical cannabidiol
22 products.

23 The bill requires the department of public health to
24 establish a committee to review product matrices, testing
25 protocols, and testing procedures used by medical cannabidiol
26 testing laboratories. The committee shall consist of five
27 members, selected by the department of public health, with
28 three members representing independent medical cannabidiol
29 testing laboratories and two members who are professors at
30 regents institutions with relevant education and experience and
31 no association with any medical cannabidiol testing laboratory.
32 Prior to implementing any new product matrix, testing protocol,
33 or testing procedure, a medical cannabidiol testing laboratory
34 must submit the product matrix, protocol, or procedure to
35 the committee for approval. A medical cannabidiol testing

1 laboratory shall not use a new product matrix, protocol, or
2 procedure that has not been approved by the committee or has
3 been disapproved. Product matrices, protocols, and procedures
4 in use prior to July 1, 2020, are not subject to review,
5 except that a medical cannabidiol manufacturer of a product
6 that has failed a test administered by a medical cannabidiol
7 testing laboratory may contest the results of the test with the
8 committee, who shall approve or disapprove the results of the
9 test. A manufacturer of a product that failed a test that was
10 disapproved by the committee may request that the product be
11 tested again without the disapproved product matrix, testing
12 protocol, or testing procedure by the committee.

13 The bill requires the department of public health to conduct
14 a study on the efficacy of medical cannabidiol in treating
15 patients with debilitating medical conditions upon receipt
16 of funding. The bill also requires the department of public
17 health to request guarantees from agencies of the federal
18 government providing funding to educational and long-term care
19 facilities in the state that such facilities shall not lose
20 such funding for allowing patients to possess and use medical
21 cannabidiol on the grounds of the facilities.