

Senate File 2074 - Introduced

SENATE FILE 2074

BY ZAUN

A BILL FOR

1 An Act relating to operating a motor vehicle after consuming
2 medical cannabidiol, and including effective date
3 provisions.

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

1 Section 1. Section 124E.12, Code 2024, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. In a prosecution for operating while
4 intoxicated under chapter 321J, if the violation is solely
5 based on an amount of a controlled substance that the person
6 is authorized to consume under this chapter, present in the
7 person as measured in the person's blood or urine, it is an
8 affirmative and complete defense to the prosecution if the
9 person furnishes proof in accordance with section 321J.2,
10 subsection 11, paragraph "b", subparagraph (2).

11 Sec. 2. Section 321J.2, subsection 8, Code 2024, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. d. A conviction for a violation of
14 subsection 1, paragraph "c", committed prior to the effective
15 date of this Act shall not be considered a previous offense
16 if the person furnishes proof that a medical cannabidiol
17 registration card was issued to the person pursuant to chapter
18 124E, the card was valid on the date the person committed the
19 offense, and there was no admissible evidence of consumption of
20 alcohol or any other controlled substance that was not covered
21 by the person's medical cannabidiol registration card.

22 Sec. 3. Section 321J.2, subsection 11, Code 2024, is amended
23 to read as follows:

24 11. a. **This section** does not apply to a person operating
25 a motor vehicle while under the influence of a drug if the
26 substance was prescribed for the person and was taken under the
27 prescription and in accordance with the directions of a medical
28 practitioner as defined in chapter 155A, if the substance
29 was consumed in accordance with chapter 124E, or if the
30 substance was dispensed by a pharmacist without a prescription
31 pursuant to the rules of the board of pharmacy, if there is
32 no admissible evidence of the consumption of alcohol and the
33 medical practitioner or pharmacist, as applicable, had not
34 directed the person to refrain from operating a motor vehicle.

35 b. When charged with a violation of **subsection 1**, paragraph

1 "c", a person may assert, one or any combination of the
2 following as an affirmative defense, that defense:

3 (1) That the controlled substance present in the person's
4 blood or urine was prescribed or dispensed for the person and
5 was taken in accordance with the directions of a practitioner
6 and the labeling directions of the pharmacy, as that person and
7 place of business are defined in section 155A.3.

8 (2) That the controlled substance present in the person's
9 blood or urine was consumed in accordance with chapter 124E.
10 For purposes of this subparagraph, it is presumed that a
11 controlled substance present in a person's blood or urine
12 was consumed in accordance with chapter 124E if the person
13 furnishes proof that the person held a medical cannabidiol
14 registration card issued pursuant to chapter 124E valid on the
15 date the person is alleged to have committed the offense.

16 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate
17 importance, takes effect upon enactment.

18 EXPLANATION

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

21 Current law prohibits a person from operating a motor
22 vehicle while any amount of a controlled substance is present
23 in the person, as measured in the person's blood or urine.
24 This prohibition does not apply if the substance was prescribed
25 for the person and was taken under the prescription and in
26 accordance with the directions of a medical practitioner or
27 if the substance was dispensed by a pharmacist without a
28 prescription pursuant to the rules of the board of pharmacy,
29 if there is no evidence of the consumption of alcohol and the
30 medical practitioner or pharmacist had not directed the person
31 to refrain from operating a motor vehicle.

32 This bill provides an additional exception if the substance
33 was consumed in accordance with Code chapter 124E (medical
34 cannabidiol Act).

35 The bill also provides a person an affirmative defense to

1 operating-while-intoxicated (OWI) charges if the controlled
2 substance present in the person's blood or urine was consumed
3 in accordance with Code chapter 124E. Under Iowa court rules,
4 a defendant who intends to rely on an affirmative defense
5 must file written notice in advance of trial. An affirmative
6 defense is a form of legal justification that negates criminal
7 liability, even if the elements of the crime are proven. The
8 bill also adds the bill's establishment of an affirmative
9 defense to the list of other affirmative defenses provided in
10 Code section 124E.12 (use of medical cannabidiol — affirmative
11 defenses).

12 Under the bill, it is presumed that a controlled substance
13 present in a person's blood or urine was consumed in accordance
14 with Code chapter 124E if the person furnishes proof of a
15 medical cannabidiol registration card valid on the date the
16 person is alleged to have committed the offense.

17 The bill prohibits considering as a previous offense a
18 prior OWI conviction for which a person can furnish proof of
19 a medical cannabidiol registration card valid on the date
20 the person committed the offense, if there was no admissible
21 evidence of consumption of alcohol or any other controlled
22 substance that was not covered by the person's medical
23 cannabidiol registration card. Under current law, a second
24 or subsequent OWI offense is subject to enhanced criminal
25 penalties and driver's license sanctions.

26 The bill takes effect upon enactment.