HOUSE FILE 2589
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 653)

(As Amended and Passed by the House March 10, 2020)
ALL New Language by the House

A BILL FOR

An Act concerning the medical cannabidiol Act and marijuana.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 96.5, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 14. *Marijuana or controlled substance use in the workplace — disqualified.*

a. For purposes of this subsection, unless the context otherwise requires:

(1) *"Controlled substance"* means the same as defined in section 124.101.

(2) *"Marijuana"* means the same as defined in section 124E.2.

b. If the department finds that the individual became separated from employment due to ingesting marijuana in the workplace, working while under the influence of marijuana, or testing positive for any other controlled substance, for which the individual did not have a current prescription or which the individual was otherwise using unlawfully, under a drug testing policy pursuant to section 730.5 or any other procedures provided by federal statutes, federal regulations, or orders issued pursuant to federal law.

c. A disqualification under this subsection shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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

i. ~~Untreatable~~ Chronic pain.

Sec. 3. Section 124E.2, subsection 2, Code 2020, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *j.* Severe, intractable autism with self-injurious or aggressive behaviors.

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

Sec. 4. Section 124E.2, subsections 5 and 6, Code 2020, are amended to read as follows:

5. *"Health care practitioner"* means an individual licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant

licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or an advanced practice registered nurse under chapter 152E, who is a patient's primary care provider or a podiatrist licensed pursuant to chapter 149. ~~"*Health care practitioner*" shall not include a physician assistant licensed under chapter 148C or an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E.~~

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

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

NEW SUBSECTION. 4A. "*Employee*" means a natural person who is employed in this state for wages by an employer.

NEW SUBSECTION. 4B. "*Employer*" means a person who in this state employs for wages an employee.

NEW SUBSECTION. 5A. "*Laboratory*" means the state hygienic laboratory at the university of Iowa in Iowa City or any other independent medical cannabidiol testing facility accredited to standard ISO/IEC 17025 by an international organization for standards-approved accrediting body, with a controlled substance registration certificate from the United States drug enforcement administration and a certificate of registration from the board of pharmacy. For the purposes of this chapter, an independent laboratory is a laboratory operated by an entity that has no equity ownership in a medical cannabidiol manufacturer.

NEW SUBSECTION. 5B. "*Marijuana*" means any derivative of marijuana including but not limited to medical cannabidiol.

NEW SUBSECTION. 7A. "*Total tetrahydrocannabinol*"

means eighty-seven and seven-tenths percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

Sec. 6. Section 124E.4, subsection 1, unnumbered paragraph 1, Code 2020, is amended to read as follows:

Subject to subsection 7, the department may ~~approve the issuance of~~ issue a medical cannabidiol registration card ~~by the department of transportation~~ to a patient who:

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

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

Sec. 8. Section 124E.4, subsection 1, paragraph f, Code 2020, is amended by striking the paragraph.

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

A medical cannabidiol registration card issued to a patient by the department ~~of transportation~~ pursuant to subsection 1 shall contain, at a minimum, all of the following:

Sec. 10. Section 124E.4, subsection 2, paragraph b, Code 2020, is amended by striking the paragraph.

Sec. 11. Section 124E.4, subsection 3, unnumbered paragraph 1, Code 2020, is amended to read as follows:

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

Sec. 12. Section 124E.4, subsection 3, paragraph b, unnumbered paragraph 1, Code 2020, is amended to read as follows:

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

Sec. 13. Section 124E.4, subsection 3, paragraph c, Code 2020, is amended by striking the paragraph.

Sec. 14. Section 124E.4, subsection 4, unnumbered paragraph 1, Code 2020, is amended to read as follows:

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

Sec. 15. Section 124E.4, subsection 4, paragraph b, Code 2020, is amended by striking the paragraph.

Sec. 16. Section 124E.4, subsection 6, Code 2020, is amended by striking the subsection.

Sec. 17. Section 124E.5, subsections 2 and 6, Code 2020, are amended to read as follows:

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

6. ~~The medical cannabidiol board may recommend a statutory revision to the definition of medical cannabidiol contained in this chapter that increases the tetrahydrocannabinol level to more than three percent, however, any such recommendation shall be submitted to the general assembly during the regular session of the general assembly following such submission.~~ The general assembly shall have the sole authority to revise the definition of medical cannabidiol for purposes of this chapter.

Sec. 18. Section 124E.6, subsection 4, Code 2020, is amended by striking the subsection and inserting in lieu thereof the following:

4. A medical cannabidiol manufacturer shall contract with a laboratory to perform spot-check testing of the medical cannabidiol produced by the medical cannabidiol manufacturer as provided in section 124E.7. The department shall require that the laboratory report testing results to the medical cannabidiol manufacturer and the department as determined by the department by rule. If a medical cannabidiol manufacturer contracts with a laboratory other than the state hygienic laboratory at the university of Iowa in Iowa City, the

department shall approve the laboratory to perform testing pursuant to this chapter.

Sec. 19. Section 124E.7, subsection 1, Code 2020, is amended by striking the subsection and inserting in lieu thereof the following:

1. A medical cannabidiol manufacturer shall contract with a laboratory to perform spot-check testing of the medical cannabidiol produced by the medical cannabidiol manufacturer as to content, contamination, and consistency. The cost of all laboratory testing shall be paid by the medical cannabidiol manufacturer.

Sec. 20. Section 124E.9, Code 2020, is amended by adding the following new subsections:

NEW SUBSECTION. 13. A medical cannabidiol dispensary shall employ a pharmacist or pharmacy technician licensed or registered pursuant to chapter 155A for the purpose of making dosing recommendations.

NEW SUBSECTION. 14. A medical cannabidiol dispensary shall not dispense more than a combined total of four and one-half grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver in a ninety-day period, except as provided in subsection 15.

NEW SUBSECTION. 15. A medical cannabidiol dispensary may dispense more than a combined total of four and one-half of total tetrahydrocannabinol to a patient and the patient's primary caregiver in a ninety-day period if any of the following apply:

a. The health care practitioner who certified the patient to receive a medical cannabidiol registration card certifies that patient's debilitating medical condition is a terminal illness with a life expectancy of less than one year. A certification issued pursuant to this paragraph shall include a total tetrahydrocannabinol cap deemed appropriate by the patient's health care practitioner.

b. The health care practitioner who certified the patient to

receive a medical cannabidiol registration card certifies that the patient has participated in the medical cannabidiol program and that the health care practitioner has determined that four and one-half of total tetrahydrocannabinol in a ninety-day period is insufficient to treat the patient's debilitating medical condition. A certification issued pursuant to this paragraph shall include a total tetrahydrocannabinol cap deemed appropriate by the patient's health care practitioner.

Sec. 21. Section 124E.11, subsection 1, paragraph b, subparagraph (1), subparagraph divisions (a) and (c), Code 2020, are amended to read as follows:

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

(c) To authorized employees of a medical cannabidiol dispensary, but only for the ~~purpose~~ purposes of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to this chapter and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by this chapter.

Sec. 22. Section 124E.11, subsection 1, paragraph b, subparagraph (1), Code 2020, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to section 124E.3 has already received a written certification from another health care practitioner.

Sec. 23. Section 124E.12, subsection 7, Code 2020, is amended to read as follows:

7. Notwithstanding any law to the contrary, the department, ~~the department of transportation,~~ the governor, or any employee of any state agency shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or

death caused by any act or omission while acting within the scope of office or employment as authorized under this chapter.

Sec. 24. NEW SECTION. **124E.20 Observational effectiveness study.**

The department may conduct an observational effectiveness study in cooperation with patients and health care practitioners and pursuant to rules of the department in order to study the effectiveness of medical cannabidiol in the treatment of debilitating medical conditions.

Sec. 25. NEW SECTION. **124E.21 Employer regulation of marijuana use.**

1. Nothing in this chapter shall require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of marijuana in the workplace.

2. Nothing in this chapter shall prohibit an employer from implementing policies restricting the use of marijuana by employees for the purpose of promoting workplace health and safety.

3. Nothing in this chapter shall prohibit an employer from including in a contract with an employee a provision prohibiting the use of marijuana.

4. Nothing in this chapter shall prohibit an employer from establishing and enforcing a zero-tolerance drug policy or a drug-free workplace by use of a drug testing policy in accordance with section 730.5 or any other procedures provided by federal statutes, federal regulations, or orders issued pursuant to federal law.

Sec. 26. NEW SECTION. **124E.22 Regulation of marijuana use by government medical assistance programs, private health insurers, and other entities.**

Nothing in this chapter shall require a government medical assistance program, private health insurer, workers' compensation carrier, or self-insured employer providing workers' compensation benefits to reimburse a person for costs

associated with the medical use of marijuana.

Sec. 27. NEW SECTION. **124E.23 Regulation of marijuana use on property.**

Nothing in this chapter shall require a person that owns, occupies, or controls a property to allow the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of marijuana on or in that property.

Sec. 28. NEW SECTION. **124E.24 Limitation of liability.**

Nothing in this chapter shall create any claim, cause of action, sanction, or penalty, for discrimination or under any other theory of liability, under chapter 216 or any other provision of law, based on an act, omission, policy, or contractual provision permissible under this chapter including but not limited to refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking any adverse employment action against a person with respect to hiring, tenure, or any terms, conditions, or privileges of employment.

Sec. 29. NEW SECTION. **124E.25 Cannabis-derived products —— exemption.**

This chapter shall not apply to any cannabis-derived investigational product or cannabis-derived product approved as a prescription drug medication by the United States food and drug administration.

Sec. 30. NEW SECTION. **124E.26 Applicability.**

The provisions of this chapter apply notwithstanding any other provision of law to the contrary.

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

Sec. 32. TRANSITION PROVISIONS. A medical cannabidiol registration card issued prior to July 1, 2020, remains effective and continues in effect as issued for the twelve-month period following its issuance.