



2022 South Dakota Legislature

Senate Bill 18

Introduced by: **Senators** Breitling, Duhamel, V. J. Smith, and Stalzer and **Representatives** Milstead, Bartels, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Perry, Rehfeldt, Wiese, and Willadsen at the request of the Marijuana Interim Study Committee

1 **An Act to revise rulemaking authority related to medical cannabis.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 34-20G-72 be AMENDED:**

4 **34-20G-72.** ~~Not later than October 29, 2021,~~ the The department shall
5 promulgate rules pursuant to chapter 1-26:

- 6 (1) Governing the manner in which the department shall consider petitions from the
7 public to add a debilitating medical condition or treatment to the list of debilitating
8 medical conditions as defined by this chapter, including public notice of and an
9 opportunity to comment in public hearings on the petitions;
- 10 (2) Establishing the form and content of registration and renewal applications
11 submitted under this chapter;
- 12 (3) Establishing a system to numerically score competing medical cannabis
13 establishment applicants, in cases where more applicants apply than are allowed
14 by the local government, that includes analysis of:
- 15 (a) The preference of the local government;
- 16 (b) In the case of dispensaries, the suitability of the proposed location and its
17 accessibility for patients;
- 18 (c) The character, veracity, background, qualifications, and relevant experience
19 of principal officers and board members; and
- 20 (d) The business plan proposed by the applicant, that in the case of a cultivation
21 facility or dispensary shall include the ability to maintain an adequate supply
22 of cannabis, plans to ensure safety and security of patrons and the
23 community, procedures to be used to prevent diversion, and any plan for
24 making cannabis available to low-income registered qualifying patients;

- 1 (4) Governing the manner in which the department shall consider applications for and
2 renewals of registry identification cards, that may include creating a standardized
3 written certification form;
- 4 (5) Governing medical cannabis establishments to ensure the health and safety of
5 qualifying patients and prevent diversion and theft without imposing an undue
6 burden or compromising the confidentiality of a cardholder, including:
- 7 (a) Oversight requirements;
- 8 (b) Record-keeping requirements;
- 9 (c) Security requirements, including lighting, physical security, and alarm
10 requirements;
- 11 (d) Health and safety regulations, including restrictions on the use of pesticides
12 that are injurious to human health;
- 13 (e) Standards for the manufacture of cannabis products and both the indoor
14 and outdoor cultivation of cannabis by a cultivation facility;
- 15 (f) Requirements for the transportation and storage of cannabis by a medical
16 cannabis establishment;
- 17 (g) Employment and training requirements, including requiring that each
18 medical cannabis establishment create an identification badge for each
19 agent;
- 20 (h) Standards for the safe manufacture of cannabis products, including extracts
21 and concentrates;
- 22 (i) Restrictions on the advertising, signage, and display of medical cannabis,
23 provided that the restrictions may not prevent appropriate signs on the
24 property of a dispensary, listings in business directories including phone
25 books, listings in marijuana-related or medical publications, or the
26 sponsorship of health or not-for-profit charity or advocacy events;
- 27 (j) Requirements and procedures for the safe and accurate packaging, ~~and~~
28 labeling, distribution, and tracking of medical cannabis; and
- 29 (k) Certification standards for testing facilities, including requirements for
30 equipment and qualifications for personnel;
- 31 (6) Establishing procedures for suspending or terminating the registration certificates
32 or registry identification cards of cardholders and medical cannabis establishments
33 that commit multiple or serious violations of this chapter;
- 34 (7) Establishing labeling requirements for cannabis and cannabis products, including
35 requiring cannabis product labels to include the following:

- 1 (a) The length of time it typically takes for a product to take effect;
- 2 (b) Disclosing ingredients and possible allergens;
- 3 (c) A nutritional fact panel; and
- 4 (d) Requiring that edible cannabis products be clearly identifiable, when
- 5 practicable, with a standard symbol indicating that it contains cannabis;
- 6 (8) Establishing procedures for the registration of nonresident cardholders and the
- 7 cardholder's designation of no more than two dispensaries, which shall require the
- 8 submission of:
- 9 (a) A practitioner's statement confirming that the patient has a debilitating
- 10 medical condition; and
- 11 (b) Documentation demonstrating that the nonresident cardholder is allowed to
- 12 possess cannabis or cannabis preparations in the jurisdiction where the
- 13 nonresident cardholder resides;
- 14 (9) Establishing the amount of cannabis products, including the amount of
- 15 concentrated cannabis, each cardholder and nonresident cardholder may possess;
- 16 and
- 17 (10) Establishing reasonable application and renewal fees for registry identification
- 18 cards and registration certificates, according to the following:
- 19 (a) Application fees for medical cannabis establishments may not exceed five
- 20 thousand dollars, with this upper limit adjusted annually for inflation;
- 21 (b) The total fees collected shall generate revenues sufficient to offset all
- 22 expenses of implementing and administering this chapter;
- 23 (c) A sliding scale of patient application and renewal fees based upon a
- 24 qualifying patient's household income;
- 25 (d) The fees charged to qualifying patients, nonresident cardholders, and
- 26 caregivers shall be no greater than the costs of processing the application
- 27 and issuing a registry identification card or registration; and
- 28 (e) The department may accept donations from private sources to reduce
- 29 application and renewal fees.

30 A violation of a required or prohibited action under any rule authorized by this

31 section is a Class 2 misdemeanor.