

Committee: House State Affairs

Monday, February 28, 2022 7:45 AM

Roll Call

Present: Rep. Anderson, Rep. Beal, Rep. Chaffee, Rep. Goodwin, Rep. Gosch,
Rep. Hansen, Rep. Kevin Jensen, Rep. Reimer, Rep. Jamie Smith, Rep. Wiese,
Rep. Chris Johnson, and Rep. Kent Peterson
Excused: Rep. Lesmeister

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Kent Peterson

MOTION: TO APPROVE THE MINUTES OF FRIDAY, FEBRUARY 25TH

Moved by: Hansen
Second by: Beal
Action: Prevailed by voice vote

SB 3 : provide for the use and regulated sale of marijuana.

Presented by: Representative Hugh Bartels, District 5
Proponents: Jeremiah M. Murphy, Cannabis Industry Association of SD, Sioux Falls
Nick Moser, Self, Yankton
Ron Jeffries, Self, Rapid City
Matthew Jorgenson, Cannabis Chem Lab, Dell Rapids
Josh Wood, self, Vermillion
Terra Larson, SD Association of Criminal Defense Lawyers, Rapid City
Emmett Reistroffer, Genesis Farms LLC, Sioux Falls (Handout(s) #1,2,3,4,5)
Opponents: Richard Tieszen, South Dakota Sheriffs Association, Pierre
Paul Bachand, South Dakota States Attorneys Association, Pierre
Dean Krogman, State Medical Association SD, Sioux Falls
Trish Sargent, Self, Pierre

Representative Peterson, Chair, passed the gavel to Representative Johnson, Vice Chair.

MOTION: DO PASS SB 3

Moved by: Jamie Smith
Second by: Beal
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER SB 3 TO THE 41ST LEGISLATIVE DAY

Moved by: Goodwin
Second by: Gosch
Action: Prevailed by Majority Members Elect (8-3-2-0)

Voting Yes: Anderson, Goodwin, Gosch, Hansen, Kevin Jensen, Reimer, Wiese, and Chris Johnson

Voting No: Beal, Chaffee, and Jamie Smith

Excused: Lesmeister and Kent Peterson

SB 150 : establish provisions concerning the sale of adult-use retail marijuana.

Presented by: Senator Brock Greenfield, District 2
Representative Mike Derby, District 34

Proponents: Senator Helene Duhamel, District 32
Richard Tieszen, South Dakota Sheriffs Association, Pierre
Paul Bachand, South Dakota States Attorneys Association, Pierre
Senator Bryan Breitling, District 23
Representative Hugh Bartels, District 5
Tony Harrison, self, Rapid City
Mark Vargo, Self, Rapid City

Opponents: Emmett Reistroffer, Genesis Farms LLC, Sioux Falls
Terra Larson, SD Association of Criminal Defense Lawyers, Pierre
Kittrick Jeffries, Dakota Cannabis Consulting, Rapid City
Liz Tiger, self, Spearfish
Patrick Lynch, Self, Sioux Falls

MOTION: AMEND SB 150

150C

On page 1, line 1, of the Senate Engrossed bill, delete "establish" and insert " revise"
On page 1, line 1, delete " the sale of adult-use retail marijuana" and insert " medical cannabis"
On the Senate Engrossed bill, delete everything after the enacting clause and insert:
"

Section 1. That § 34-20G-51 be AMENDED:

34-20G-51. Except as provided in § 34-20G-18 and this section, ~~a person may assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any prosecution ~~involving for using or possessing~~ cannabis, and such affirmative defense is presumed valid where the evidence shows that:

- ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- ~~(2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, six cannabis plants minimum or as prescribed by a physician, and the cannabis produced by those plants;~~
- ~~(3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~
- ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access~~

- (1) The person is a qualifying patient and the person is not in physical possession of the registry identification card, the person was registered with the department as a cardholder or nonresident cardholder at the time of the alleged offense;
- (2) The person is a designated caregiver, the person was registered with the department and in physical possession of the registry identification card at the time of the alleged offense or produces the registry identification card to law enforcement within forty-eight hours of the alleged offense; and
- (3) The conduct underlying the alleged offense complied with this chapter.

Section 2. That § 34-20G-8 be REPEALED:

~~No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner; or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, transport, or store cannabis or cannabis products;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.~~

Section 3. That § 34-20G-9 be REPEALED:

~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~
- ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or~~
- ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.~~

Section 4. That § 34-20G-10 be REPEALED:

~~No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;~~

- ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;~~
- ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;~~
- ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.~~

Section 5. That § 34-20G-11 be REPEALED:

~~No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;~~
- ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;~~
- ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~
- ~~(4) Receive compensation for services under this section.~~

Section 6. That § 34-20G-53 be REPEALED:

~~A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 34-20G-51."~~

Moved by: Anderson
 Second by: Jamie Smith
 Action: Prevailed by voice vote

The gavel was passed back to Representative Peterson, Chair.

MOTION: AMEND SB 150

150D

On the previously adopted amendment (150C), On page 2, line 12, after "chapter." delete "Section 2. That § 34-20G-8 be REPEALED:

"

On the previously adopted amendment (150C), On page 2, line 13, after "REPEALED:" delete "No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner; or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Possess, transport, or store cannabis or cannabis products;
- (2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;
- (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;
- (4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and
- (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary."

On the previously adopted amendment (150C), On page 2, line 29, after "dispensary." delete "Section 3. That § 34-20G-9 be REPEALED:

"

On the previously adopted amendment (150C), On page 2, line 30, after "REPEALED:" delete "No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;
- (2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;
- (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;
- (4) Purchase or otherwise acquire cannabis from a cultivation facility;
- (5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or
- (6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary."

On the previously adopted amendment (150C), On page 3, line 15, after "dispensary." delete "Section 4. That § 34-20G-10 be REPEALED:

"

On the previously adopted amendment (150C), On page 3, line 16, after "REPEALED:" delete "No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;
- (2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;
- (3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;
- (4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or
- (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary."

On the previously adopted amendment (150C), On page 3, line 33, after "dispensary." delete "Section 5. That § 34-20G-11 be REPEALED:

"

On the previously adopted amendment (150C), On page 4, line 1, after "REPEALED:" delete "No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;
- (2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;
- (3) Test cannabis, including for potency, pesticides, mold, or contaminants; or
- (4) Receive compensation for services under this section."

On the previously adopted amendment (150C), On page 4, line 12, after "section." delete "Section 6. That § 34-20G-53 be REPEALED:

"

On the previously adopted amendment (150C), On page 4, line 13, after "REPEALED:" delete "A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 34-20G-51."

Moved by: Gosch
Second by: Hansen
Action: Failed by roll call vote (6-6-1-0)

Voting Yes: Gosch, Hansen, Kevin Jensen, Reimer, Chris Johnson, and Kent Peterson

Voting No: Anderson, Beal, Chaffee, Goodwin, Jamie Smith, and Wiese

Excused: Lesmeister

MOTION: DO PASS SB 150 AS AMENDED

Moved by: Wiese
Second by: Anderson
Action: Prevailed by Majority Members Elect (7-5-1-0)

Voting Yes: Anderson, Chaffee, Goodwin, Kevin Jensen, Reimer, Wiese, and Chris Johnson

Voting No: Beal, Gosch, Hansen, Jamie Smith, and Kent Peterson

Excused: Lesmeister

HCR 6010 : Supporting the initiatives of the Sisseton Wahpeton Oyate.

MOTION: TO TABLE HCR 6010

Moved by: Jamie Smith
Second by: Gosch
Action: Prevailed by Majority Members Elect (12-0-1-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Gosch, Hansen, Kevin Jensen, Reimer, Jamie Smith, Wiese, Chris Johnson, and Kent Peterson

Excused: Lesmeister

The committee recessed until 10 minutes following House adjournment.

SB 108 : repeal certain reporting requirements to the Executive Board of the Legislative Research Council.

Presented by: Representative Hugh Bartels, District 5

MOTION: DO PASS SB 108

Moved by: Anderson
Second by: Kevin Jensen
Action: Prevailed by Majority Members Elect (10-0-3-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Kevin Jensen, Reimer, Jamie Smith, Wiese, Chris Johnson, and Kent Peterson

Excused: Gosch, Hansen, and Lesmeister

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 108 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

SB 117 : repeal the requirement for an annual report by the Board of Regents on intellectual diversity and the free exchange of ideas.

Presented by: Representative Sydney Davis, District 17

Proponents: Nathan Lukkes, Board of Regents

Opponents: Representative Sue Peterson, District 13 (Handout(s) #6)
Representative Trish Ladner, District 30

MOTION: DO PASS SB 117

Moved by: Wiese

Second by: Reimer

Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER SB 117 TO THE 41ST LEGISLATIVE DAY

Moved by: Chris Johnson

Second by: Hansen

Action: Prevailed by Majority Members Elect (7-4-2-0)

Voting Yes: Beal, Chaffee, Hansen, Kevin Jensen, Reimer, Wiese, and Chris Johnson

Voting No: Anderson, Goodwin, Jamie Smith, and Kent Peterson

Excused: Gosch and Lesmeister

SB 195 : establish the burden of proof after a claim of immunity.

Presented by: Representative Jon Hansen, District 25

Proponents: Justin Bell, South Dakota Association of Criminal Defense Lawyers, Rapid City
Representative Kevin Jensen, District 16
Brian Gosch, National Rifle Association, Fairfax, VA

Opponents: Paul Bachand, South Dakota States Attorneys Association, Pierre
Charles McGuigan, Office of the Attorney General

MOTION: DO PASS SB 195

Moved by: Kevin Jensen

Second by: Beal

Action: Prevailed by Majority Members Elect (10-1-2-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Hansen, Kevin Jensen, Reimer, Wiese, Chris Johnson, and Kent Peterson

Voting No: Jamie Smith

Excused: Gosch and Lesmeister

SB 131 : require the Board of Regents to provide an annual presentation to the special committee.

Presented by: Senator Ryan Maher, District 28

MOTION: DO PASS SB 131

Moved by: Hansen
Second by: Chris Johnson
Action: Prevailed by Majority Members Elect (11-0-2-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Hansen, Kevin Jensen, Reimer, Jamie Smith, Wiese, Chris Johnson, and Kent Peterson

Excused: Gosch and Lesmeister

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 131 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

MOTION: ADJOURN

Moved by: Hansen
Second by: Beal
Action: Prevailed by voice vote

Pam Kean, Committee Secretary

/s/ KENT PETERSON
Kent Peterson, Chair