

2022 South Dakota Legislature

Senate Bill 150**AMENDMENT 150C FOR THE SENATE ENGROSSED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 An Act to **establish revise** provisions concerning ~~the sale of adult use retail~~
2 **marijuana medical cannabis.**

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

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

5 **34-20G-51.** Except as provided in § 34-20G-18 and this section, ~~a person may~~
6 ~~assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any
7 ~~prosecution involving for using or possessing~~ cannabis, and such affirmative defense is
8 presumed valid where the evidence shows that:

9 ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after~~
10 ~~having completed a full assessment of the person's medical history and current~~
11 ~~medical condition made in the course of a bona fide practitioner patient~~
12 ~~relationship, the patient has a debilitating medical condition and the potential~~
13 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~
14 ~~risks for the person;~~

15 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~
16 ~~amount of cannabis products allowed by department rules, six cannabis plants~~
17 ~~minimum or as prescribed by a physician, and the cannabis produced by those~~
18 ~~plants;~~

19 ~~(3) The person was engaged in the acquisition, possession, use, manufacture,~~
20 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~
21 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~
22 ~~condition or symptoms associated with the person's debilitating medical condition;~~
23 ~~and~~

1 ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis~~
2 ~~occurred in a secure location that only the person asserting the defense could~~
3 ~~access~~

4 ~~(1) The person is a qualifying patient and the person is not in physical possession of~~
5 ~~the registry identification card, the person was registered with the department as~~
6 ~~a cardholder or nonresident cardholder at the time of the alleged offense;~~

7 ~~(2) The person is a designated caregiver, the person was registered with the~~
8 ~~department and in physical possession of the registry identification card at the time~~
9 ~~of the alleged offense or produces the registry identification card to law~~
10 ~~enforcement within forty-eight hours of the alleged offense; and~~

11 ~~(3) The conduct underlying the alleged offense complied with this chapter.~~

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

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

18 ~~(1) Possess, transport, or store cannabis or cannabis products;~~

19 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~
20 ~~testing facility for services provided;~~

21 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~
22 ~~value is exchanged in return;~~

23 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary,~~
24 ~~and cannabis products from cannabis product manufacturing facility or dispensary;~~
25 ~~and~~

26 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~
27 ~~paraphernalia, or related supplies or educational materials to a cardholder,~~
28 ~~nonresident cardholder, or dispensary.~~

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

30 ~~No cultivation facility or a cultivation facility agent is subject to prosecution, search,~~
31 ~~or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of~~
32 ~~any kind, or may be denied any right or privilege, including civil penalty or disciplinary~~

1 ~~action by a court or business licensing board or entity, for acting in accordance with this~~
2 ~~chapter to:~~

3 ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process,~~
4 ~~manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~

5 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~
6 ~~testing facility for services provided;~~

7 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~
8 ~~value is exchanged in return;~~

9 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~

10 ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the~~
11 ~~equivalent of a medical cannabis establishment that is registered in another~~
12 ~~jurisdiction; or~~

13 ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or~~
14 ~~related supplies or educational materials to a cultivation facility and dispensary.~~

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

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

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

23 ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack,~~
24 ~~repack, and store cannabis or cannabis products;~~

25 ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis~~
26 ~~paraphernalia, or related supplies or educational materials to a dispensary or~~
27 ~~cannabis product manufacturing facility;~~

28 ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing~~
29 ~~facility for services provided; or~~

30 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~
31 ~~paraphernalia, or related supplies or educational materials to a cannabis product~~
32 ~~manufacturing facility or dispensary.~~

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

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

6 ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from~~
7 ~~a cardholder, nonresident cardholder or medical cannabis establishment;~~

8 ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder,~~
9 ~~or medical cannabis establishment from whom it was obtained;~~

10 ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~

11 ~~(4) Receive compensation for services under this section.~~

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

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