



2022 South Dakota Legislature

Senate Bill 150

HOUSE STATE AFFAIRS ENGROSSED

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

Introduced by: **Senator Duhamel**

1 **An Act to revise provisions concerning medical cannabis.**

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

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

4 **34-20G-51.** Except as provided in § 34-20G-18 and this section, ~~a person may~~
 5 ~~assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any
 6 ~~prosecution involving for using or possessing~~ cannabis, and such affirmative defense is
 7 presumed valid where the evidence shows that:

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

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

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

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

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

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

- 10 ~~No dispensary or a dispensary agent is subject to prosecution, search, or~~
11 ~~inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any~~
12 ~~manner; or may be denied any right or privilege, including civil penalty or disciplinary~~
13 ~~action by a court or business licensing board or entity, for acting in accordance with this~~
14 ~~chapter to:~~
15 ~~(1) Possess, transport, or store cannabis or cannabis products;~~
16 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~
17 ~~testing facility for services provided;~~
18 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~
19 ~~value is exchanged in return;~~
20 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary,~~
21 ~~and cannabis products from cannabis product manufacturing facility or dispensary;~~
22 ~~and~~
23 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~
24 ~~paraphernalia, or related supplies or educational materials to a cardholder,~~
25 ~~nonresident cardholder, or dispensary.~~

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

- 27 ~~No cultivation facility or a cultivation facility agent is subject to prosecution, search,~~
28 ~~or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of~~
29 ~~any kind, or may be denied any right or privilege, including civil penalty or disciplinary~~
30 ~~action by a court or business licensing board or entity, for acting in accordance with this~~
31 ~~chapter to:~~
32 ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process,~~
33 ~~manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~

- 1 ~~(2) — Deliver, transfer, or transport cannabis to a testing facility and compensate a~~
2 ~~testing facility for services provided;~~
- 3 ~~(3) — Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~
4 ~~value is exchanged in return;~~
- 5 ~~(4) — Purchase or otherwise acquire cannabis from a cultivation facility;~~
- 6 ~~(5) — Purchase cannabis seeds from a cardholder, nonresident cardholder, or the~~
7 ~~equivalent of a medical cannabis establishment that is registered in another~~
8 ~~jurisdiction; or~~
- 9 ~~(6) — Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or~~
10 ~~related supplies or educational materials to a cultivation facility and dispensary.~~

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

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

- 17 ~~(1) — Purchase or otherwise acquire cannabis from cultivation facility, and cannabis~~
18 ~~products or cannabis from a cannabis product manufacturing facility;~~
- 19 ~~(2) — Possess, produce, process, manufacture, compound, convert, prepare, pack,~~
20 ~~repack, and store cannabis or cannabis products;~~
- 21 ~~(3) — Deliver, transfer, or transport cannabis, cannabis products, cannabis~~
22 ~~paraphernalia, or related supplies or educational materials to a dispensary or~~
23 ~~cannabis product manufacturing facility;~~
- 24 ~~(4) — Deliver, transfer, or transport cannabis to testing facility and compensate testing~~
25 ~~facility for services provided; or~~
- 26 ~~(5) — Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~
27 ~~paraphernalia, or related supplies or educational materials to a cannabis product~~
28 ~~manufacturing facility or dispensary.~~

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

30 ~~No testing facility or testing facility agent is subject to prosecution, search, or~~
31 ~~inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any~~
32 ~~manner, 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) Acquire, possess, transport, and store cannabis or cannabis products obtained from~~
4 ~~a cardholder, nonresident cardholder or medical cannabis establishment;~~

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

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

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

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

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