2024 South Dakota Legislature

House Bill 1024

AMENDMENT 1024A
FOR THE INTRODUCED BILL

An Act to require that an application for a medical marijuana registry identification card include a notice ~~and acknowledgement~~ of federal law regarding firearms and the unlawful use of a controlled substance.

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

Section 1. That chapter 34-20G be amended with a NEW SECTION:

Each application for a registry identification card and each application for a card renewal must include a notice that:

(1) The Gun Control Act of 1968, 18 U.S.C. § 922 (January 1, 2024), prohibits any person who is an unlawful user of or addicted to any controlled substance, as defined by the Controlled Substances Act of 1970, 21 U.S.C. § 801, et seq., (January 1, 2024), from shipping, transporting, receiving, or possessing a firearm or ammunition;

(2) Until marijuana is legalized under federal law, an individual who is a current user of marijuana is, under federal law, an unlawful user of a controlled substance; and

(3) Federal law does not exempt the use of marijuana for medicinal purposes.

~~The notice required by this section must be acknowledged by the separate signature of the qualifying patient or the patient's representative, in accordance with § 34-20G-30.~~

~~Section 2. That § 34-20G-34 be AMENDED:~~

~~34-20G-34.~~ ~~The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:~~

~~(1) Does not provide the required information, fee, or materials;~~

~~(2) Does not meet the requirement to obtain a registry identification card as defined in § 34-20G-1;~~

~~(3) Fails to acknowledge, by a separate signature, the notice required by section 1 of this Act;~~

~~(4) Previously had a registry identification card revoked; or~~

~~(4)~~(5) ~~Provided false information.~~

Section 2. That § 34-20G-72 be AMENDED:

34-20G-72. The department shall promulgate rules, pursuant to chapter 1-26:

(1) Establishing the form and content of registration and renewal applications submitted under this chapter and include the notice requirements set forth in section 1 of this Act;

(2) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:

(a) The preference of the local government;

(b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;

(c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and

(d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;

(3) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;

(4) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:

(a) Oversight requirements;

(b) Record-keeping requirements;

(c) Security requirements, including lighting, physical security, and alarm requirements;

(d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;

(e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;

(f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;

(g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;

(h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;

(i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;

(j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;

(k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and

(l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogenous cannabis products intended for retail sale, and procedures to ensure representative sampling;

(5) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;

(6) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:

(a) The length of time it typically takes for a product to take effect;

(b) Disclosing ingredients and possible allergens;

(c) A nutritional fact panel; and

(d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;

(7) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:

(a) A practitioner's statement confirming that the patient has a debilitating medical condition; and

(b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;

(8) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and

(9) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:

(a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;

(b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;

(c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;

(d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and

(e) The department may accept donations from private sources to reduce application and renewal fees.

A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.