



2024 South Dakota Legislature

House Bill 1024

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Representative Jensen** (Kevin)

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

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

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

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

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

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

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

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

17 **34-20G-72.** The department shall promulgate rules, pursuant to chapter 1-26:

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

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

24 (a) The preference of the local government;

- 1 (b) In the case of dispensaries, the suitability of the proposed location and its
2 accessibility for patients;
- 3 (c) The character, veracity, background, qualifications, and relevant experience
4 of principal officers and board members; and
- 5 (d) The business plan proposed by the applicant, that in the case of a cultivation
6 facility or dispensary shall include the ability to maintain an adequate supply
7 of cannabis, plans to ensure safety and security of patrons and the
8 community, procedures to be used to prevent diversion, and any plan for
9 making cannabis available to low-income registered qualifying patients;
- 10 (3) Governing the manner in which the department shall consider applications for and
11 renewals of registry identification cards, that may include creating a standardized
12 written certification form;
- 13 (4) Governing medical cannabis establishments to ensure the health and safety of
14 qualifying patients and prevent diversion and theft without imposing an undue
15 burden or compromising the confidentiality of a cardholder, including:
- 16 (a) Oversight requirements;
- 17 (b) Record-keeping requirements;
- 18 (c) Security requirements, including lighting, physical security, and alarm
19 requirements;
- 20 (d) Health and safety regulations, including restrictions on the use of pesticides
21 that are injurious to human health;
- 22 (e) Standards for the manufacture of cannabis products and both the indoor
23 and outdoor cultivation of cannabis by a cultivation facility;
- 24 (f) Requirements for the transportation and storage of cannabis by a medical
25 cannabis establishment;
- 26 (g) Employment and training requirements, including requiring that each
27 medical cannabis establishment create an identification badge for each
28 agent;
- 29 (h) Standards for the safe manufacture of cannabis products, including extracts
30 and concentrates;
- 31 (i) Restrictions on the advertising, signage, and display of medical cannabis,
32 provided that the restrictions may not prevent appropriate signs on the
33 property of a dispensary, listings in business directories including phone
34 books, listings in marijuana-related or medical publications, or the
35 sponsorship of health or not-for-profit charity or advocacy events;

- 1 (j) Requirements and procedures for the safe and accurate packaging, labeling,
2 distribution, and tracking of medical cannabis;
- 3 (k) Certification standards for testing facilities, including requirements for
4 equipment and qualifications for personnel; and
- 5 (l) Requirements for samples of cannabis and cannabis products submitted to
6 testing facilities, including batch sizes to not exceed fifty pounds of cannabis
7 intended for retail sale, batch sizes for homogenous cannabis products
8 intended for retail sale, and procedures to ensure representative sampling;
- 9 (5) Establishing procedures for suspending or terminating the registration certificates
10 or registry identification cards of cardholders and medical cannabis establishments
11 that commit multiple or serious violations of this chapter;
- 12 (6) Establishing labeling requirements for cannabis and cannabis products, including
13 requiring cannabis product labels to include the following:
- 14 (a) The length of time it typically takes for a product to take effect;
- 15 (b) Disclosing ingredients and possible allergens;
- 16 (c) A nutritional fact panel; and
- 17 (d) Requiring that edible cannabis products be clearly identifiable, when
18 practicable, with a standard symbol indicating that it contains cannabis;
- 19 (7) Establishing procedures for the registration of nonresident cardholders and the
20 cardholder's designation of no more than two dispensaries, which shall require the
21 submission of:
- 22 (a) A practitioner's statement confirming that the patient has a debilitating
23 medical condition; and
- 24 (b) Documentation demonstrating that the nonresident cardholder is allowed to
25 possess cannabis or cannabis preparations in the jurisdiction where the
26 nonresident cardholder resides;
- 27 (8) Establishing the amount of cannabis products, including the amount of
28 concentrated cannabis, each cardholder and nonresident cardholder may possess;
29 and
- 30 (9) Establishing reasonable application and renewal fees for registry identification
31 cards and registration certificates, according to the following:
- 32 (a) Application fees for medical cannabis establishments may not exceed five
33 thousand dollars, with this upper limit adjusted annually for inflation;
- 34 (b) The total fees collected shall generate revenues sufficient to offset all
35 expenses of implementing and administering this chapter;

- 1 (c) A sliding scale of patient application and renewal fees based upon a
2 qualifying patient's household income;
- 3 (d) The fees charged to qualifying patients, nonresident cardholders, and
4 caregivers shall be no greater than the costs of processing the application
5 and issuing a registry identification card or registration; and
- 6 (e) The department may accept donations from private sources to reduce
7 application and renewal fees.

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