

**Chapter 138**  
**(Senate Bill 43)**

**An Act to establish procedures for the imposition of fines and probation against medical cannabis establishments, increase the allowable fee for a medical cannabis establishment registration certificate, and direct the Department of Health to promulgate rules to increase the fee for a registration certificate.**

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

**Section 1. 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;
- (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 the suspension and termination of the registry identification cards of cardholders and medical cannabis establishments that who~~ commit multiple or serious violations of this chapter;
- (6) Establishing procedures for:
- (a) The imposition of fines, not to exceed ten thousand dollars per inspection, on a medical cannabis establishment that is found to have committed multiple or serious violations of this chapter; and
  - (b) The probation, suspension, and termination of the registration certificate of a medical cannabis establishment that commits multiple or serious violations of this chapter;
- (7) 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)~~(8) 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)(9)~~ Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and
- ~~(9)(10)~~ 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 to exceed five twenty thousand dollars, with this upper limit adjusted annually for inflation;~~
  - ~~(b)~~ ~~The, with the total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter costs related to program implementation and administration; and~~
  - ~~(c)~~ ~~A~~
- (11) Establishing application and renewal fees for registry identification cards and nonresident cardholder registration as follows:
- (a) Using a sliding scale of patient application and renewal fees based upon a qualifying patient's household income;
  - ~~(d)~~(b) The fees charged to qualifying patients, nonresident cardholders, and caregivers ~~shall~~ may not be ~~no~~ greater than the costs of processing the application and issuing a registry identification card or registration; and
  - ~~(e)~~(c) 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.

**Section 2.** The Department of Health shall amend the following Administrative Rules of South Dakota, to be filed with the secretary of state no later than September 30, 2024, utilizing the permanent rulemaking procedure in chapter 1-26:

44:90:03:17. **Fees for registration certificates -- Application and renewal.** The department shall collect a non-refundable fee for an initial or renewal application for an establishment registration certificate of ~~five nine thousand three hundred and ten~~ dollars.

**Signed March 14, 2024**

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