



2026 South Dakota Legislature

House Bill 1211

Introduced by: **Representative Garcia**

1 **An Act to create a digital registry identification card for medical cannabis patients.**

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

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

4 **34-20G-1.** Terms used in this chapter mean:

5 (1) "Allowable amount of cannabis,":

6 (a) Three ounces of cannabis or less;

7 (b) The quantity of cannabis products as established by rules promulgated by
8 the department under § 34-20G-72;

9 (c) If the cardholder has a registry identification card allowing cultivation, two
10 flowering cannabis plants and two cannabis plants that are not flowering;
11 and

12 (d) If the cardholder has a registry identification card allowing cultivation, the
13 amount of cannabis and cannabis products that were produced from the
14 cardholder's allowable plants, if the cannabis and cannabis products are
15 possessed at the same property where the plants were cultivated;

16 (2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship
17 between a practitioner and patient, during which:

18 (a) The practitioner completes, at the initial visit, an assessment of the patient's
19 medical history and current medical condition, including an appropriate in-
20 person physical examination;

21 (b) The patient is under the practitioner's care for the debilitating medical
22 condition that qualifies the patient for the medical use of cannabis or has
23 been referred by the practitioner caring for the patient's debilitating medical
24 condition that qualifies the patient for the medical use of cannabis to
25 another practitioner;

- 1 (c) The patient has a reasonable expectation that the practitioner providing the
2 written certification will continue to provide follow-up care to the patient to
3 monitor the medical use of cannabis; and
- 4 (d) The relationship is not for the sole purpose of providing a written
5 certification for the medical use of cannabis unless the patient has been
6 referred by a practitioner providing care for the debilitating medical
7 condition that qualifies the patient for the medical use of cannabis;
- 8 (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products
9 that are infused with cannabis or an extract thereof, and are intended for use or
10 consumption by humans. The term includes edible cannabis products, beverages,
11 topical products, ointments, oils, and tinctures;
- 12 (4) "Cannabis product manufacturing facility," an entity registered with the
13 department pursuant to this chapter that acquires, possesses, manufactures,
14 delivers, transfers, transports, supplies, or sells cannabis products to a medical
15 cannabis dispensary;
- 16 (5) "Cannabis testing facility" or "testing facility," an independent entity registered
17 with the department pursuant to this chapter to analyze the safety and potency of
18 cannabis;
- 19 (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued
20 and possesses a valid registry identification card;
- 21 (7) "Cultivation facility," an entity registered with the department pursuant to this
22 chapter that acquires, possesses, cultivates, delivers, transfers, transports,
23 supplies, or sells cannabis and related supplies to a medical cannabis
24 establishment;
- 25 (8) "Debilitating medical condition,":
- 26 (a) A chronic or debilitating disease or medical condition or its treatment that
27 produces one or more of the following: cachexia or wasting syndrome;
28 severe, debilitating pain; severe nausea, except nausea associated with
29 pregnancy; seizures; or severe and persistent muscle spasms;
- 30 (b) Acquired immune deficiency syndrome or positive status for human
31 immunodeficiency virus;
- 32 (c) Amyotrophic lateral sclerosis;
- 33 (d) Multiple sclerosis;
- 34 (e) Cancer or its treatment, if associated with severe or chronic pain, nausea
35 or severe vomiting, or cachexia or severe wasting;

- 1 (f) Crohn's disease;
- 2 (g) Epilepsy and seizures; or
- 3 (h) Post-traumatic stress disorder;
- 4 (9) "Department," the Department of Health;
- 5 (10) "Designated caregiver," an individual who:
- 6 (a) Is at least twenty-one years of age;
- 7 (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
- 8 (c) Has not been convicted of a disqualifying felony offense; and
- 9 (d) Assists no more than five qualifying patients with the medical use of
- 10 cannabis, unless the designated caregiver's qualifying patients each reside
- 11 in or are admitted to a health care facility, as defined in § 34-12-1.1, an
- 12 accredited prevention or treatment facility, as defined in § 34-20A-2, a
- 13 mental health center, as defined in § 27A-1-1, a child welfare agency, as
- 14 defined in § 26-6-1, or a community support provider or community
- 15 services provider, as defined in § 27B-1-17, where the designated caregiver
- 16 is employed;
- 17 (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the
- 18 jurisdiction where the person was convicted;
- 19 (12) "Edible cannabis products," any product that:
- 20 (a) Contains or is infused with cannabis or an extract thereof;
- 21 (b) Is intended for human consumption by oral ingestion; and
- 22 (c) Is presented in the form of foodstuffs, beverages, oils, tinctures, or other
- 23 similar products;
- 24 (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other
- 25 enclosed area that is equipped with locks or other security devices that permit
- 26 access only by a cardholder or a person allowed to cultivate the plants. Two or
- 27 more cardholders who reside in the same dwelling may share one enclosed, locked
- 28 facility for cultivation;
- 29 (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which
- 30 the plant shows physical signs of flower budding out of the nodes of the stem;
- 31 (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- 32 (16) "Medical cannabis dispensary" or "dispensary," an entity registered with the
- 33 department pursuant to this chapter that acquires, possesses, stores, delivers,
- 34 transfers, transports, sells, supplies, or dispenses cannabis, cannabis products,
- 35 paraphernalia, or related supplies and educational materials to cardholders;

- 1 (17) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility,
2 a cannabis product manufacturing facility, or a dispensary;
- 3 (18) "Medical cannabis establishment agent," an owner, officer, board member,
4 employee, or volunteer at a medical cannabis establishment;
- 5 (19) "Medical use," includes the acquisition, administration, cultivation, manufacture,
6 delivery, harvest, possession, preparation, transfer, transportation, or use of
7 cannabis or paraphernalia relating to the administration of cannabis to treat or
8 alleviate a registered qualifying patient's debilitating medical condition or symptom
9 associated with the patient's debilitating medical condition. The term does not
10 include:
- 11 (a) The cultivation of cannabis by a nonresident cardholder;
- 12 (b) The cultivation of cannabis by a cardholder who is not designated as being
13 allowed to cultivate on the cardholder's registry identification card; or
- 14 (c) The extraction of resin from cannabis by solvent extraction unless the
15 extraction is done by a cannabis product manufacturing facility;
- 16 (20) "Nonresident cardholder," a person who:
- 17 (a) Has been diagnosed with a debilitating medical condition, or is the parent,
18 guardian, conservator, or other person with authority to consent to the
19 medical treatment of a person who has been diagnosed with a debilitating
20 medical condition;
- 21 (b) Is not a resident of this state or who has been a resident of this state for
22 fewer than forty-five days;
- 23 (c) Was issued a currently valid registry identification card or its equivalent by
24 another state, district, territory, commonwealth, insular possession of the
25 United States, or country recognized by the United States that allows the
26 person to use cannabis for medical purposes in the jurisdiction of issuance;
27 and
- 28 (d) Has submitted any documentation required by the department, and has
29 received confirmation of registration;
- 30 (21) "Practitioner," a physician, physician assistant, or advanced practice registered
31 nurse, who is licensed with authority to prescribe drugs to humans. In relation to
32 a nonresident cardholder, the term means a person who is licensed with authority
33 to prescribe drugs to humans in the state of the patient's residence;
- 34 (22) "Qualifying patient," a person who has been diagnosed by a practitioner as having
35 a debilitating medical condition;

- 1 (23) "Registry identification card," a document issued by the department that identifies
 2 a person as a registered qualifying patient or registered designated caregiver, or
 3 documentation that is deemed a registry identification card pursuant to §§ 34-20G-
 4 29 to 34-20G-42, inclusive. A registry identification card may be physical or digital;
 5 (24) "Safety-sensitive job," any position with tasks or duties that an employer
 6 reasonably believes could:
 7 (a) Cause the illness, injury, or death of an individual; or
 8 (b) Result in serious property damage;
 9 (25) "Under the influence of cannabis," any abnormal mental or physical condition that
 10 tends to deprive a person of clearness of intellect and control that the person would
 11 otherwise possess, as the result of consuming any degree of cannabis or cannabis
 12 products; and
 13 (26) "Written certification," a document dated and signed by a practitioner:
 14 (a) Stating that the patient has a qualifying debilitating medical condition or
 15 symptom associated with the debilitating medical condition;
 16 (b) Affirming that the document is made in the course of a bona fide
 17 practitioner-patient relationship;
 18 (c) Specifying the qualifying patient's debilitating medical condition; and
 19 (d) Specifying the expiration date of the qualifying patient's written
 20 certification, pursuant to § 34-20G-43; and
 21 (e) Specifying whether the practitioner has previously issued the patient a
 22 written certification and the date of that written certification.

23 **Section 2. That § 34-20G-31 be AMENDED:**

- 24 **34-20G-31.** Except as provided in § 34-20G-32, the department shall:
 25 (1) Verify the information contained in an application or renewal submitted pursuant
 26 to this chapter and approve or deny an application or renewal within fifteen days
 27 of receiving a completed application or renewal application;
 28 (2) Issue registry identification cards in a physical form and a digital form, as provided
 29 in section 3 of this Act, to a qualifying patient and to a qualifying patient's
 30 designated caregivers, if any, within five days of approving the application or
 31 renewal. A designated caregiver shall have a registry identification card, in physical
 32 and digital form, for each of the qualifying patients; and
 33 (3) Enter the registry identification number of any dispensary the patient designates
 34 into the verification system.

1 **Section 3. That a NEW SECTION be added to chapter 34-20G:**

2 The department shall produce a digital registry identification card with features to
3 ensure that:

4 (1) Use of the digital registry identification card does not require handing over one's
5 electronic device to any other person;

6 (2) Any remote access to the digital registry identification card requires the express,
7 affirmative, real-time consent of the cardholder for each piece of information being
8 requested and is limited to information that is provided on a printed, hard copy
9 registry identification card;

10 (3) The digital registry identification card, as well as any mobile application required
11 for the digital registry identification card, does not contain or collect any
12 information that is not necessary for the functioning of the digital registry
13 identification card or mobile application;

14 (4) No part of the system or technology involved in a digital registry identification card
15 and utilized by the department will disclose any data regarding a cardholder's
16 presentation of the digital registry identification card to law enforcement or to a
17 dispensary;

18 (5) A digital registry identification card, as well as any mobile application required for
19 the digital registry identification card, is encrypted and protected to the highest
20 reasonable security standards that are broadly available, such that information
21 cannot be intercepted while being transmitted from the department;

22 (6) Any data exchanged between the department and the provider of any electronic
23 device, and between any electronic device and the provider of that electronic
24 device, is limited to the data necessary for a digital registry identification card;

25 (7) A digital registry identification card provides for selective disclosure and allows
26 attribute authentication, including proof of certification status; and

27 (8) Any contract between the department and another entity concerning digital registry
28 identification cards prohibits the use, sharing, sale, and disclosure of any
29 information obtained and provides that, upon the termination or expiration of the
30 contract, the entity shall delete any data collected or generated in the activities of
31 the contract.

32 The department shall provide for the issuance of digital registry identification cards
33 in such a manner as to detect and prevent the alteration, duplication, counterfeiting,
34 photographing, forging, or other modification of the digital registry identification card.