2021 South Dakota Legislature

House Bill 1193

Introduced by: ***Representative*** *Ernie Otten*

An Act to revise certain packaging and labeling requirements for medical cannabis.

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

Section 1. That § 34-20G-72 be AMENDED.

34-20G-72. [Effective July 1, 2021] Promulgation of rules--Violation of required or prohibited action as misdemeanor.

Not later than October 29, 2021, the department shall promulgate rules pursuant to chapter 1-26:

(1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;

(2) Establishing the form and content of registration and renewal applications submitted under this chapter;

(3) 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;

(4) 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;

(5) 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 and labeling of medical cannabis; and

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

(6) 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;

(7) Establishing labeling and packaging requirements for cannabis and cannabis products~~, including requiring cannabis product labels to include the following~~ that shall:

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

(b) ~~Disclosing~~ Disclose ingredients and possible allergens;

(c) ~~A~~ Require a nutritional fact panel; ~~and~~

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

(e) Disclose the amount of delta-9 tetrahydrocannabinol in the package and in each serving as expressed in absolute terms and as a percentage of volume;

(f) Prohibit the use of bright colors, cartoon characters, and other features designed to appeal to minors;

(g) Protect children from accidentally ingesting cannabis or cannabis products by making packaging certified child-resistant and resealable;

(h) Ensure that packaging is opaque or plain in design; and

(i) Limit each serving size to no greater than ten milligrams of delta-9 tetrahydrocannabinol;

(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;

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

(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 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.

Section 2. That a NEW SECTION be added:

34-20G-72.1. Warning statement--Misdemeanor.

A dispensary shall label cannabis or cannabis product for retail sale with the following statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Cannabis use during pregnancy and breastfeeding may pose potential harms. Use of cannabis may impair your ability to drive a car or operate machinery. KEEP THIS PRODUCT AWAY FROM CHILDREN." A violation of this section is a Class 2 misdemeanor.