



## 2022 South Dakota Legislature

# Senate Bill 24

CONFERENCE COMMITTEE ENGROSSED

Introduced by: **Senators** V. J. Smith, Breitling, Duhamel, Heinert, Rohl, and Stalzer and **Representatives** Bartels, Bordeaux, Chaffee, Derby, Duba, Fitzgerald, Goodwin, Ernie Otten, Perry, and Wiese at the request of the Marijuana Interim Study Committee

1 **An Act to establish a maximum number of cannabis plants that may be cultivated**  
 2 **by a medical cannabis cardholder.**

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

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

5 **34-20G-1.** Terms used in this chapter mean:

- 6 (1) "Allowable amount of cannabis," ~~means:~~
- 7 (a) Three ounces of cannabis or less;
- 8 (b) The quantity of cannabis products as established by rules promulgated by  
 9 the department under § 34-20G-72;
- 10 (c) If the cardholder has a registry identification card allowing cultivation, ~~three~~  
 11 two flowering cannabis plants minimum or as prescribed by physician and  
 12 two cannabis plants that are not flowering; and
- 13 (d) If the cardholder has a registry identification card allowing cultivation, the  
 14 amount of cannabis and cannabis products that were produced from the  
 15 cardholder's allowable plants, if the cannabis and cannabis products are  
 16 possessed at the same property where the plants were cultivated;
- 17 (2) "Bona fide practitioner-patient relationship,":
- 18 (a) A practitioner and patient have a treatment or consulting relationship,  
 19 during the course of which the practitioner has completed an assessment  
 20 of the patient's medical history and current medical condition, including an  
 21 appropriate in-person physical examination;
- 22 (b) The practitioner has consulted with the patient with respect to the patient's  
 23 debilitating medical condition; and
- 24 (c) The practitioner is available to or offers to provide follow-up care and  
 25 treatment to the patient, including patient examinations;

- 1 (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products  
2 that are infused with cannabis or an extract thereof, and are intended for use or  
3 consumption by humans. The term includes edible cannabis products, beverages,  
4 topical products, ointments, oils, and tinctures;
- 5 (4) "Cannabis product manufacturing facility," an entity registered with the  
6 department pursuant to this chapter that acquires, possesses, manufactures,  
7 delivers, transfers, transports, supplies, or sells cannabis products to a medical  
8 cannabis dispensary;
- 9 (5) "Cannabis testing facility" or "testing facility," an independent entity registered  
10 with the department pursuant to this chapter to analyze the safety and potency of  
11 cannabis;
- 12 (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued  
13 and possesses a valid registry identification card;
- 14 (7) "Cultivation facility," an entity registered with the department pursuant to this  
15 chapter that acquires, possesses, cultivates, delivers, transfers, transports,  
16 supplies, or sells cannabis and related supplies to a medical cannabis  
17 establishment;
- 18 (8) "Debilitating medical condition,":  
19 (a) A chronic or debilitating disease or medical condition or its treatment that  
20 produces one or more of the following: cachexia or wasting syndrome;  
21 severe, debilitating pain; severe nausea; seizures; or severe and persistent  
22 muscle spasms, including those characteristic of multiple sclerosis; or  
23 (b) Any other medical condition or its treatment added by the department, as  
24 provided for in § 34-20G-26;
- 25 (9) "Department," ~~means~~ the Department of Health;
- 26 (10) "Designated caregiver," a person who:  
27 (a) Is at least twenty-one years of age;  
28 (b) Has agreed to assist with a qualifying patient's medical use of cannabis;  
29 (c) Has not been convicted of a disqualifying felony offense; and  
30 (d) Assists no more than five qualifying patients with the medical use of  
31 cannabis, unless the designated caregiver's qualifying patients each reside  
32 in or are admitted to a health care facility or residential care facility where  
33 the designated caregiver is employed;
- 34 (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the  
35 jurisdiction where the person was convicted;

- 1 (12) "Edible cannabis products," any product that:
- 2 (a) Contains or is infused with cannabis or an extract thereof;
- 3 (b) Is intended for human consumption by oral ingestion; and
- 4 (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures,
- 5 or other similar products;
- 6 (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other
- 7 enclosed area that is equipped with locks or other security devices that permit
- 8 access only by a cardholder or a person allowed to cultivate the plants. Two or
- 9 more cardholders who reside in the same dwelling may share one enclosed, locked
- 10 facility for cultivation;
- 11 (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which
- 12 the plant shows physical signs of flower budding out of the nodes of the stem;
- 13 (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- 14 ~~(15)~~(16) "Medical cannabis dispensary" or "dispensary," an entity registered with the
- 15 department pursuant to this chapter that acquires, possesses, stores, delivers,
- 16 transfers, transports, sells, supplies, or dispenses cannabis, cannabis products,
- 17 paraphernalia, or related supplies and educational materials to cardholders;
- 18 ~~(16)~~(17) "Medical cannabis establishment," a cultivation facility, a cannabis testing
- 19 facility, a cannabis product manufacturing facility, or a dispensary;
- 20 ~~(17)~~(18) "Medical cannabis establishment agent," an owner, officer, board member,
- 21 employee, or volunteer at a medical cannabis establishment;
- 22 ~~(18)~~(19) "Medical use," includes the acquisition, administration, cultivation,
- 23 manufacture, delivery, harvest, possession, preparation, transfer, transportation,
- 24 or use of cannabis or paraphernalia relating to the administration of cannabis to
- 25 treat or alleviate a registered qualifying patient's debilitating medical condition or
- 26 symptom associated with the patient's debilitating medical condition. The term
- 27 does not include:
- 28 (a) The cultivation of cannabis by a nonresident cardholder;
- 29 (b) The cultivation of cannabis by a cardholder who is not designated as being
- 30 allowed to cultivate on the cardholder's registry identification card; or
- 31 (c) The extraction of resin from cannabis by solvent extraction unless the
- 32 extraction is done by a cannabis product manufacturing facility;
- 33 ~~(19)~~(20) "Nonresident cardholder," a person who:
- 34 (a) Has been diagnosed with a debilitating medical condition, or is the parent,
- 35 guardian, conservator, or other person with authority to consent to the

- 1 medical treatment of a person who has been diagnosed with a debilitating  
 2 medical condition;
- 3 (b) Is not a resident of this state or who has been a resident of this state for  
 4 fewer than forty-five days;
- 5 (c) Was issued a currently valid registry identification card or its equivalent by  
 6 another state, district, territory, commonwealth, insular possession of the  
 7 United States, or country recognized by the United States that allows the  
 8 person to use cannabis for medical purposes in the jurisdiction of issuance;  
 9 and
- 10 (d) Has submitted any documentation required by the department, and has  
 11 received confirmation of registration;
- 12 ~~(20)~~(21) "Practitioner," a physician who is licensed with authority to prescribe drugs to  
 13 humans. In relation to a nonresident cardholder, the term means a person who is  
 14 licensed with authority to prescribe drugs to humans in the state of the patient's  
 15 residence;
- 16 ~~(21)~~(22) "Qualifying patient," a person who has been diagnosed by a practitioner as  
 17 having a debilitating medical condition;
- 18 ~~(22)~~(23) "Registry identification card," a document issued by the department that  
 19 identifies a person as a registered qualifying patient or registered designated  
 20 caregiver, or documentation that is deemed a registry identification card pursuant  
 21 to §§ 34-20G-29 to 34-20G-42, inclusive; and
- 22 ~~(23)~~(24) "Written certification," a document dated and signed by a practitioner, stating  
 23 that in the practitioner's professional opinion the patient is likely to receive  
 24 therapeutic or palliative benefit from the medical use of cannabis to treat or  
 25 alleviate the patient's debilitating medical condition or symptom associated with  
 26 the debilitating medical condition. This document shall affirm that it is made in the  
 27 course of a bona fide practitioner-patient relationship and shall specify the  
 28 qualifying patient's debilitating medical condition.

29 **Section 2. That § 34-20G-51 be AMENDED:**

- 30 **34-20G-51.** Except as provided in § 34-20G-18 and this section, a person may  
 31 assert the medical purpose for using cannabis as a defense to any prosecution involving  
 32 cannabis, and such defense is presumed valid where the evidence shows that:
- 33 (1) A practitioner has stated that, in the practitioner's professional opinion, after  
 34 having completed a full assessment of the person's medical history and current

- 1 medical condition made in the course of a bona fide practitioner-patient  
2 relationship, the patient has a debilitating medical condition and the potential  
3 benefits of using cannabis for medical purposes would likely outweigh the health  
4 risks for the person;
- 5 (2) The person was in possession of no more than three ounces of cannabis, the  
6 amount of cannabis products allowed by department rules, ~~six~~ two flowering  
7 cannabis plants ~~minimum or as prescribed by a physician,~~ two cannabis plants  
8 that are not flowering, and the cannabis produced by those plants;
- 9 (3) The person was engaged in the acquisition, possession, use, manufacture,  
10 cultivation, or transportation of cannabis, paraphernalia, or both, relating to the  
11 administration of cannabis to treat or alleviate the person's debilitating medical  
12 condition or symptoms associated with the person's debilitating medical condition;  
13 and
- 14 (4) Any cultivation of cannabis and storage of more than three ounces of cannabis  
15 occurred in a secure location that only the person asserting the defense could  
16 access.