



2025 South Dakota Legislature

House Bill 1123

Introduced by: **Representative Fitzgerald**

1 **An Act to repeal medical purpose as a defense in prosecutions involving cannabis.**

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

3 **Section 1. That § 34-20G-51 be REPEALED.**

4 Except as provided in ~~§ 34-20G-18~~ and this section, a person may assert the
5 medical purpose for using cannabis as a defense to any prosecution involving cannabis,
6 and such defense is presumed valid where the evidence shows that:

7 (1) ~~A practitioner has stated that, in the practitioner's professional opinion, after~~
8 ~~having completed a full assessment of the person's medical history and current~~
9 ~~medical condition made in the course of a bona fide practitioner-patient~~
10 ~~relationship, the patient has a debilitating medical condition and the potential~~
11 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~
12 ~~risks for the person;~~

13 (2) ~~The person was in possession of no more than three ounces of cannabis, the~~
14 ~~amount of cannabis products allowed by department rules, two flowering cannabis~~
15 ~~plants, two cannabis plants that are not flowering, and the cannabis produced by~~
16 ~~those plants;~~

17 (3) ~~The person was engaged in the acquisition, possession, use, manufacture,~~
18 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~
19 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~
20 ~~condition or symptoms associated with the person's debilitating medical condition;~~
21 ~~and~~

22 (4) ~~Any cultivation of cannabis and storage of more than three ounces of cannabis~~
23 ~~occurred in a secure location that only the person asserting the defense could~~
24 ~~access.~~

25 **Section 2. That § 34-20G-53 be REPEALED.**

1 ~~A person is not required to possess a registry identification card to raise the~~
2 ~~affirmative defense set forth in § 34-20G-51.~~