

## 2022 South Dakota Legislature

**House Bill 1004****AMENDMENT 1004A FOR THE INTRODUCED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 An Act to ~~prohibit cardholder cultivation of~~ revise provisions regarding medical  
2 cannabis.

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

4 **Section 1. That § 34-20G-51 be AMENDED:**

5 **34-20G-51.** Except as provided in § 34-20G-18 and this section, ~~a person may~~  
6 ~~assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any  
7 ~~prosecution involving for using or possessing cannabis,~~ and such affirmative defense is  
8 presumed valid where the evidence shows that:

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

15 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~  
16 ~~amount of cannabis products allowed by department rules, six cannabis plants~~  
17 ~~minimum or as prescribed by a physician, and the cannabis produced by those~~  
18 ~~plants;~~

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

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

4 (1) The person is a qualifying patient and the person is not in physical possession of  
5 the registry identification card, the person was registered with the department as  
6 a cardholder or nonresident cardholder at the time of the alleged offense;

7 (2) The person is a designated caregiver, the person was registered with the  
8 department and in physical possession of the registry identification card at the time  
9 of the alleged offense or produces the registry identification card to law  
10 enforcement within forty-eight hours of the alleged offense; and

11 (3) The conduct underlying the alleged offense complied with this chapter  
12

13 **Section 2. That § 34-20G-8 be REPEALED:**

14 ~~No dispensary or a dispensary agent is subject to prosecution, search, or~~  
15 ~~inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any~~  
16 ~~manner; or may be denied any right or privilege, including civil penalty or disciplinary~~  
17 ~~action by a court or business licensing board or entity, for acting in accordance with this~~  
18 ~~chapter to:~~

19 ~~(1) Possess, transport, or store cannabis or cannabis products;~~

20 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~  
21 ~~testing facility for services provided;~~

22 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~  
23 ~~value is exchanged in return;~~

24 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary,~~  
25 ~~and cannabis products from cannabis product manufacturing facility or dispensary;~~  
26 ~~and~~

27 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~  
28 ~~paraphernalia, or related supplies or educational materials to a cardholder,~~  
29 ~~nonresident cardholder, or dispensary.~~

30 **Section 3. That § 34-20G-9 be REPEALED:**

31 ~~No cultivation facility or a cultivation facility agent is subject to prosecution, search,~~  
32 ~~or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of~~  
33 ~~any kind, or may be denied any right or privilege, including civil penalty or disciplinary~~

1 ~~action by a court or business licensing board or entity, for acting in accordance with this~~  
2 ~~chapter to:~~

3 ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process,~~  
4 ~~manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~

5 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~  
6 ~~testing facility for services provided;~~

7 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~  
8 ~~value is exchanged in return;~~

9 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~

10 ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the~~  
11 ~~equivalent of a medical cannabis establishment that is registered in another~~  
12 ~~jurisdiction; or~~

13 ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or~~  
14 ~~related supplies or educational materials to a cultivation facility and dispensary.~~

15 **Section 4. That § 34-20G-10 be REPEALED:**

16 ~~No cannabis product manufacturing facility or a cannabis product manufacturing~~  
17 ~~facility agent is subject to prosecution, search, or inspection, except by the department~~  
18 ~~pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or~~  
19 ~~privilege, including civil penalty or disciplinary action by a court or business licensing board~~  
20 ~~or entity, for acting in accordance with this chapter to:~~

21 ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis~~  
22 ~~products or cannabis from a cannabis product manufacturing facility;~~

23 ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack,~~  
24 ~~repack, and store cannabis or cannabis products;~~

25 ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis~~  
26 ~~paraphernalia, or related supplies or educational materials to a dispensary or~~  
27 ~~cannabis product manufacturing facility;~~

28 ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing~~  
29 ~~facility for services provided; or~~

30 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~  
31 ~~paraphernalia, or related supplies or educational materials to a cannabis product~~  
32 ~~manufacturing facility or dispensary.~~

33 **Section 5. That § 34-20G-11 be REPEALED:**

1 ~~No testing facility or testing facility agent is subject to prosecution, search, or~~  
2 ~~inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any~~  
3 ~~manner, or may be denied any right or privilege, including civil penalty or disciplinary~~  
4 ~~action by a court or business licensing board or entity, for acting in accordance with this~~  
5 ~~chapter to:~~

6 ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from~~  
7 ~~a cardholder, nonresident cardholder or medical cannabis establishment;~~

8 ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder,~~  
9 ~~or medical cannabis establishment from whom it was obtained;~~

10 ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~

11 ~~(4) Receive compensation for services under this section.~~

12 **Section 6. That § 34-20G-53 be REPEALED:**

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