

2022 South Dakota Legislature

Senate Bill 150**AMENDMENT 150D FOR THE SENATE ENGROSSED BILL**

1 **An Act to establish revise provisions concerning ~~the sale of adult use retail~~
2 ~~marijuana~~ medical 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 **~~Section 2. That § 34-20G-8 be REPEALED:~~**

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

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

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

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

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

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

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 That § 34-20G-9 be REPEALED:~~**

28 ~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or~~
29 ~~inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any~~

1 ~~kind, or may be denied any right or privilege, including civil penalty or disciplinary action by~~
2 ~~a court or business licensing board or entity, for acting in accordance with this chapter to:~~

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

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

7 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is~~
8 ~~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 equivalent of~~
11 ~~a medical cannabis establishment that is registered in another jurisdiction; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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