

HOUSE RESEARCH

Bill Summary

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Overview

This bill allows for the medical use of marijuana. It provides regulation of the medical use of marijuana by setting limits for allowable amounts of marijuana and requiring qualifying patients and caregivers to possess registry identification cards, which are issued by the commissioner.

Section

1 **Medical use of marijuana data.** Amends § 13.3806 by adding subd. 21. States that data collected on the medical use of marijuana is classified as confidential, according to section 152.25, subdivision 5.

2 **Definitions.** Adds § 152.22. Defines key terms in sections 152.22 to 152.31.

Subd. 1. Applicability. States that these definitions apply to terms in sections 152.22 to 152.31.

Subd. 2. Allowable amount of marijuana. (a) States that the allowable amount of marijuana for a patient is 12 plants, 2.5 ounces of usable marijuana and any amount of the other parts of the plant.

(b) States that a primary caregiver may have 2.5 ounces of usable marijuana and any amount of the other parts of the plant, but may not have any plants.

(c) States that a registered organization may have the same types and amount as in

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paragraph (a) for each patient.

Subd. 3. Commissioner. Refers to the commissioner of health.

Subd. 4. Debilitating medical condition. Lists the conditions that qualify as debilitating, including: cancer, glaucoma, chronic diseases for which treatments cause certain other conditions, HIV and other commissioner-approved conditions.

Subd. 5. Department. Refers to the Department of Health.

Subd. 6. Medical use. States the activities that are considered medical use, including: possession, delivery and use of marijuana or paraphernalia.

Subd. 7. Practitioner. Refers to a licensed doctor of medicine, doctor of osteopathy, registered nurse, physician assistant or advance practice registered nurse.

Subd. 8. Primary caregiver. Refers to a person of at least 18 years who assists no more than five patients with their medical use of marijuana.

Subd. 9. Qualifying patient. Refers to a person diagnosed as having a debilitating medical condition.

Subd. 10. Registry identification card. Refers to a document issued by the commissioner that identifies a qualifying patient or caregiver.

Subd. 11. Usable marijuana. Refers to dried leaves and flowers of the marijuana plant.

Subd. 12. Written certification. States that the statement is signed by a practitioner to certify that the benefits of marijuana use would likely outweigh the health risks for the patient. States that the statement specifies the patient's debilitating medical condition.

3 Protections for medical use of marijuana. Adds § 152.23. Describes certain legal protections associated with the medical use of marijuana.

Subd. 1. Qualifying patient. Provides legal protection for patients with a registry identification card, who engage in the medical use of marijuana. States that these persons shall not be arrested, prosecuted, or subjected to civil or disciplinary action, so long as they do not possess more than an allowable amount of marijuana.

Subd. 2. Primary caregiver. Provides protection for caregivers with a registry identification card, who assist in the medical use of marijuana. States that these persons shall not be arrested, prosecuted, or subjected to civil or disciplinary action, so long as they do not possess more than an allowable amount of marijuana.

Subd. 3. Discrimination prohibited. Prohibits schools, employers and landlords

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from discriminating against persons solely based on their status as qualifying patients or primary caregivers.

Subd. 4. Presumption. Creates a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana if that person has a registry identification card and not more than the allowable amount of marijuana. States that this presumption may be rebutted with evidence that the conduct was not for the purpose of alleviating the patient's medical condition or symptoms associated with the condition.

Subd. 5. Caregiver's reimbursement. States that primary caregivers may be reimbursed for the costs associated with assisting the qualifying patient. States that this compensation is not the sale of controlled substances.

Subd. 6. Practitioner. Provides legal protection for practitioners for providing written certifications for stating the benefits of medical use of marijuana likely outweigh the health risks to the patient.

Subd. 7. Property rights. (a) States that interests in and rights to property associated with the medical use of marijuana are not forfeited.

(b) States that a law enforcement agency that seizes and does not return usable marijuana from a qualifying patient or primary caregiver is liable for the fair market value of the marijuana. Describes how the value is determined.

Subd. 8. Arrest and prosecution prohibited. States that no person is subject to arrest or prosecution for offenses related to being in the presence of the medical use of marijuana or for assisting a qualifying patient with its use.

Subd. 9. Nursing facilities. Allows nursing facilities to restrict the use of medical marijuana and provides guidelines for these restrictions.

4 Registry identification cards; issuance. Adds 152.25.

Subd. 1. Requirements; issuance. (a) States the information that must be provided to the commissioner by the qualifying patient, in order to receive a registry identification card.

(b) Provides situations in which the commissioner may issue a card to a person under the age of 18.

(c) Requires the commissioner to approve or deny an application within 15 days of receiving it. States that approval or denial is a final agency action and is subject to judicial review.

(d) Allows for up to two primary caregivers per qualifying patient and requires the commissioner to issue registry identification cards to those named on an approved

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application.

(e) Requires the commissioner to issue a card within five days of approval. States that the cards expire one year after issuance. Lists the information that must be contained on the cards.

Subd. 2. Notification of changes; penalties. (a) Requires a qualifying patient to notify the commissioner within 10 days of any change to the patient's personal information, primary caregiver or if the patient no longer has the debilitating medical condition.

(b) Provides for a fine of no more than \$150 for failing to notify the commissioner of a change. States that a person who no longer has the debilitating medical condition is liable for penalties for the non-medical use of marijuana.

(c) Requires a primary caregiver to notify the commissioner within 10 days of any change in name or address. Provides for a fine of no more than \$150 for failing to notify the commissioner of a change.

(d) States that the commissioner shall issue a new card with updated information for a \$10 fee.

(e) Requires the commissioner to notify a primary caregiver when a qualifying patient ceases to use the caregiver's assistance. States that the protections of the caregiver expire 10 days after notification.

Subd. 3. Lost cards. Allows for a patient or caregiver that loses a registry identification card to have a new card, with a new number, issued by the commissioner for a \$10 fee.

Subd. 4. Card as probable cause. States that possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion to search the person or person's property.

Subd. 5. Data practices. (a) States that applications and information submitted by qualifying persons is confidential.

(b) Requires the commissioner to keep a confidential list of persons to whom a registry identification card has been issued. States that identifying information on the list is exempt from the Minnesota Freedom of Information Act.

(c) Allows the commissioner to verify the validity of a registry identification card by confirming the registry identification number.

(d) Makes it a crime to breach the confidentiality of the information obtained pursuant

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to this act.

Subd. 6. Report. Requires the commissioner to provide an annual report to the legislature as to the number of applications for registry identification cards, approvals and revocations, the nature of debilitating medical conditions, and the number of practitioners providing written certifications.

Subd. 7. Submission of false records; criminal penalty. Establishes a five-year felony for knowingly submitting false records or documentation required by the commissioner of health for certification of a registered organization.

Subd. 8. Appropriations. States that fees raised in this section are to be deposited into SGSR fund.

5 **Construction.** Adds § 152.26. (a) States that this act does not permit persons to undertake certain tasks under the influence of marijuana. States that this act does not permit smoking marijuana in certain places, including: schools, correctional facilities and public places.

(b) States that this act does not require medical assistance programs to cover the costs associated with the medical use of marijuana or employers to accommodate such use in the workplace.

6 **Penalties.** Adds § 152.27. Allows for a fine of \$500, on top of any other penalties, for fraudulent representation to law enforcement relating to medical use of marijuana to avoid arrest or prosecution.

7 **Affirmative defense and dismissal for medical marijuana.** Adds § 152.29. Allows a person to assert the medical use of marijuana as an affirmative defense. States that the defense is presumed valid if the certain evidence is shown. The defense sunsets on June 30, 2008 .

8 **Severability.** Adds 152.30. States that invalidity of a provision in sections 152.22 to 152.31 with regards any person does not affect the application of the other provisions in these sections that can be given full effect with the invalid provision.

9 **Registered organization.** Adds § 152.31.

Subd. 1. Definition. Defines a “registered organization” as a nonprofit registered with the commissioner that provides marijuana and related supplies to qualifying patients.

Subd. 2. Registration requirements. Requires the commissioner to issue a license to any person who provides certain identification information.

Subd. 3. Expiration. States that licenses and registry identification cards expire one year after issuance.

Subd. 4. Inspection. Subjects registered organizations to inspection by the commissioner.

Subd. 5. Organization requirements.

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- Requires registered organizations to be nonprofit entities and prohibits them from being located within 500 feet of schools and churches.
- Requires registered organizations to notify the commissioner when employees leave or new employees are hired.
- Provides certain legal protections for registered organizations.
- Prohibits registered organizations from obtaining marijuana from outside the state and from possessing or cultivating marijuana for any reason other than to assist registered qualifying patients.

Subd. 6. Background checks; felony drug convictions. Requires background checks for all employees, agents and board members of registered organizations. Describes who will perform the checks. States that the purpose of the check, relating to medical marijuana, may not be disclosed to the F.B.I. Describes consequences for failed background checks, and for conviction of a drug felony.

Subd. 7. Penalty. Provides for criminal penalties for possessing more than the allowable amount of marijuana and for providing marijuana to persons other than a qualifying patient or the patient's primary caregiver.

- 10 Appropriations.** Appropriates \$401,000 for fiscal year 2009 from the state government special revenue fund to the commissioner of health to implement sections 152.22 to 152.31.
- 11 Effective date.** Provides an immediate effective date for sections 1 to 9.