

# HOUSE RESEARCH

## Bill Summary

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### Overview

The 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, requiring qualifying patients and caregivers to possess registry identification cards, issued by the commissioner, and regulating medical marijuana dispensaries. The bill also provides for civil and criminal penalties for violations of these sections.

#### Section

**1**      **Medical use of marijuana data.** Amends § 13.3806 by adding subdivision 22. States that data collected relating to registrations for the medical use of marijuana are classified in section 152.33.

**2**      **Definitions.** Adds § 152.22.

**Subd. 1. Applicability.** Defines terms used in sections 152.22 to 152.38.

**Subd. 2. Allowable amount of marijuana.** States that for qualifying patients, the allowable amount of marijuana is 2.5 ounces and, if the patient's registry identification card authorizes cultivation of marijuana, then six marijuana plants in a specified location and the marijuana produced from those plants are allowed.

For a designated caregiver, the allowable amount of marijuana, for each patient, is 2.5 ounces and, if the designated caregiver's registry identification card authorizes cultivation of marijuana, then six marijuana plants in a specified location and the marijuana produced from those plants are allowed.

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The allowable amount of marijuana does not include marijuana that is incidental to medical use but not usable marijuana.

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

**Subd. 4. Cardholder.** Refers to a qualifying patient or designated caregiver who has been issued and possesses a valid registry identification card.

**Subd. 5. Debilitating medical condition.** Lists the medical conditions that qualify as debilitating, including, but not limited to, cancer, AIDS, hepatitis C, HIV, seizures, and other commissioner-approved conditions or treatments.

**Subd. 6. Designated caregiver.** Refers to a person who is at least 21 years old who assists no more than five qualifying patients with their medical use of marijuana.

**Subd. 7. Enclosed, locked facility.** Refers to an enclosed area equipped with locks or other security devices that permit access only by a cardholder.

**Subd. 8. Medical marijuana dispensary.** Refers to an entity registered under § 152.25 that, among other things, dispenses marijuana, paraphernalia, or related supplies to registered qualifying patients or registered designated caregivers.

**Subd. 9. Medical marijuana organization.** Refers to a medical marijuana dispensary or a safety compliance facility.

**Subd. 10. Medical use of marijuana.** Refers to, among other things, the possession, use, and harvesting of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with that condition.

**Subd. 11. Practitioner.** Refers to a doctor of medicine, doctor of osteopathy, a physician assistant, or an advance practice registered nurse. If the debilitating condition is post-traumatic stress disorder, requires the practitioner to be a licensed psychiatrist.

**Subd. 12. Qualifying patient.** Refers to a person having been diagnosed by a practitioner as having a debilitating medical condition.

**Subd. 13. Registration certificate.** Refers to a document issued by the commissioner that identifies an entity as a medical marijuana dispensary or a safety compliance facility.

**Subd. 14. Registry identification card.** Refers to a document issued by the commissioner that identifies a qualifying patient or caregiver.

**Subd. 15. Safety compliance facility.** Refers to an entity that provides consumer protection services to the public, including but not limited to, laboratory testing and specified training services.

**Subd. 16. Usable marijuana.** Refers to the flowers of the marijuana plant.

**Subd. 17. Visiting qualifying patient.** Refers to a person who has been diagnosed by an authorized individual in the state of the person's residence, possesses authorization equivalent to a registry identification, and who is not a Minnesota resident or has been a Minnesota resident for less than 30 days.

**Subd. 18. Written certification.** Refers to signed and dated documentation issued

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by a licensed practitioner stating a person is likely to receive therapeutic or palliative benefit from the medical use of marijuana and specified information relating to the patient.

**3**     **Limitations.** Adds § 152.23. States that sections 152.22 to 152.38 do not permit a person to engage in nor prohibit the imposition of civil or criminal penalties for actions including, but not limited to, negligence and medical use of marijuana in listed places. Also states that the sections do not require medical assistance and MinnesotaCare programs to reimburse an enrollee or a provider for costs associated with the medical use of marijuana.

**4**     **Rulemaking.** Adds § 152.24. Requires the commissioner to adopt rules setting forth procedures and methods for implementing sections 152.22 to 152.38.

**5**     **Registration and certification of medical marijuana organizations.** Adds § 152.25.

**Subd. 1. Registration.** Requires the commissioner to issues a registration certificate to a prospective medical marijuana organization, within 90 days of receiving an application, if specified conditions are met. These include, but are not limited to, payment of an application fee, a physical address not within 1,000 feet of a school, principal officers or board members all over the age of 21, and population restrictions relating to the number of medical marijuana dispensaries within one county.

**Subd. 2. Additional dispensaries.** Allows the commissioner to register additional medical marijuana dispensaries at its discretion and requires counties with an area of over 5,000 square miles to have at least two dispensaries, regardless of population.

**Subd. 3. Competing applications.** Requires the commissioner to use an impartial and numerically scored competitive bidding process to determine approval between multiple applications within a single county. Authorizes a background check on principal officers and board members to carry out this provision.

**Subd. 4. Expiration.** States all registration certificates expire one year after the date of issue.

**Subd. 5. Renewal.** Requires the commissioner to issue a renewal registration certificate within 10 days under listed conditions.

**6**     **Registry identification cards.** Adds § 152.26.

**Subd. 1. Registration of qualifying patients and designated caregivers.** Lists the requirements a qualifying patient must include in an application to the commissioner, including, but not limited to, an application fee, personal information, and a signed statement from the designated caregiver, if any.

**Subd. 2. Issuance.** Requires the commissioner to issue a registry identification card to a qualifying patient and a designated caregiver, if any, within five days of approval and specifies related requirements. Also forbids the issuance of a registry identification card to a qualifying patient who is under the age of 18 unless, among other conditions, there is written parental approval and two written certifications from practitioners.

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**Subd. 3. Contents of registry identification cards.** Requires that registry identification cards contain, among other things, the name, date of birth, and photograph of the cardholder and a unique random 20-digit alphanumeric identification number.

**Subd. 4. Denial of registry identification cards.** Lists situations in which the commissioner may deny an application or a renewal application and requires procedures relating to the denial to be followed by the commissioner.

**Subd. 5. Expiration.** States that all registry identification cards expire one year after the date of issue.

**Subd. 6. Lost registry identification cards.** Provides a procedure for reissuance of a registry identification card upon the original having been lost.

7 **Notifications.** Adds § 152.27. Requires a qualifying patient and designated caregiver to notify the commissioner of specified changes in registration information within ten days of the change occurring. Outlines procedures for the commissioner to follow when changed information results in either issuance or voidance of a new registry identification card. Also required a medical marijuana organization to notify the commissioner of any theft or significant loss of marijuana within one business day.

8 **Medical marijuana organization requirements.** Adds § 152.28. Outlines the duties of a medical marijuana organization during and throughout operation, including, but not limited to, security measures, acquiring marijuana from qualifying patients, and office, staff, and requirements for the dispensing of marijuana.

9 **Medical marijuana organization locations.** Adds § 152.29. Grants cities the ability to enact reasonable zoning rules to limit the use of land for medical marijuana dispensaries or safety compliance facilities to specified areas.

10 **Nursing facilities.** Adds § 152.30. Allows nursing facilities or boarding care homes to adopt reasonable restrictions on the use of medical marijuana by persons receiving inpatient services. States that these facilities are not required to adopt restrictions but may not unreasonably limit a qualifying patient's access to or use of medical marijuana.

11 **Verification system.** Adds § 152.31. Requires the commissioner to develop a telephone or Web-based verification system for law enforcement personnel and registered medical marijuana organizations to verify registry identification numbers. The system may disclose only limited information regarding the cardholder.

12 **Annual report.** Adds § 152.32. Requires the commissioner to annually report to the legislature on listed information, which must not include identifying information on qualifying patients, designated caregivers, or practitioners.

13 **Confidentiality.** Adds § 152.33. (a) Classifies data submitted by qualifying patients, designated caregivers, and medical marijuana organizations as private or nonpublic as defined in section 13.02.

(b) Precludes the commissioner from using data for any purpose not listed in sections 152.22 to 152.38 and precludes data being combined or linked in any manner with other lists or databases.

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(c) Allows the commissioner to disclose information as necessary for listed purposes, including, but not limited to, operating the verification system for law enforcement and notification to the Board of Medical Practice if there is reason to believe that a practitioner provided a prescription without completely a full assessment or otherwise violated the standard of care.

(d) Requires medical marijuana organizations to maintain information based on registry identification numbers and not names of other personally information.

(e) Allows the commissioner to notify a third party of a patient or caregiver's registration status at the request of the cardholder.

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**Protections for the medical use of marijuana.** Adds § 152.34.

**Subd. 1. Presumption.** Provides a rebuttable presumption that a qualifying patient or designated caregiver is engaged in the authorized medical use of marijuana if in possession of both a registry identification card and an amount of marijuana that does not exceed the allowable amount. The presumption is rebuttable by evidence that the use of marijuana was not for the purpose of the patient's debilitating medical condition.

**Subd. 2. Qualifying patient and designated caregiver.** States that a qualifying patient or a designated caregiver is not subject to penalty for use, assistance, reimbursement for services provided by the caregiver, transferring, purchasing, or the offering or providing of marijuana for medical use.

**Subd. 3. Visiting qualifying patient.** States that a visiting qualifying patient is not subject to penalty for the medical use of marijuana so long as the visiting qualifying patient does not possess more than 2.5 ounces of usable marijuana.

**Subd. 4. Dismissal of charges.** Provides for the dismissal of charges upon production of a valid registry identification card for charges related to a qualifying patient or designated caregiver who possessed an allowable amount of marijuana but was not in possession of a registry identification card.

**Subd. 5. Practitioner.** States a practitioner may not be charged or disciplined by a professional licensing board for providing written certifications based on the actual opinion of the practitioner. Allows sanctioning from a professional licensing board for a practitioner's failure to properly evaluate a patient or for violation of a standard of care for patient evaluation.

**Subd. 6. Legal counsel.** States an attorney may not be subject to disciplinary action by a professional licensing board for providing legal assistance to prospective or registered medical marijuana dispensaries, safety compliance facilities, or other activity that is now legal under sections 152.22 to 152.38.

**Subd. 7. Arrest and prosecution prohibited.** Prohibits penalties for persons providing or selling marijuana paraphernalia to registered cardholders or medical marijuana organizations or being in the presence of the authorized use of medical

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marijuana.

**Subd. 8. Medical marijuana dispensary.** Prohibits a medical marijuana dispensary or its agent from prosecution, search, or inspection, except as conducted by the commissioner pursuant to section 152.28, for listed offenses including, but not limited to, possession, delivery, and purchase of marijuana for medical use.

**Subd. 9. Safety compliance facility.** Prohibits a safety compliance facility or its agent from prosecution, search, or inspection, except as conducted by the commissioner pursuant to section 152.28, for listed offenses including, but not limited to, possession, delivery, and purchase of marijuana for medical use.

**Subd. 10. Property rights.** States that interests or rights in property used in connection to the medical use of marijuana is not subject to forfeiture under sections 609.531 to 609.5318 (dealing with forfeiture of property for the commission of crimes).

**Subd. 11. Discrimination prohibited.** (a) Prohibits a school or landlord from refusing to enroll or lease to a person based on the person's status as a cardholder, unless failing to do so would violate federal law or regulation or cause the school or landlord to lose monetary or licensing-relating benefits under federal law or regulation.

(b) States that the use of medical marijuana is considered an authorized use of a medication and does not constitute the use of an illicit substance for purposes of medical care, including organ transplants.

(c) Prohibits an employer from discriminating in hiring, termination, or other terms of employment based on a person's status as a cardholder or a positive drug test, unless the person was impaired by marijuana on the premises of employment or during the hours of employment. The prohibition on discrimination exists unless a failure to do so would violate federal law or regulation or cause the employer to lose monetary or licensing-related benefits under federal law or regulation.

(d) Prohibits denial of custody, visitation rights, or parenting time based on a person's status as a cardholder. Prohibits a presumption of neglect or child endangerment unless, as established by clear and convincing evidence, the person's behavior creates an unreasonable danger to a minor's safety.

**Subd. 12. Card as probable cause.** Prohibits the possession of or application for a registry identification card from being used as probable cause or reasonable suspicion on which to base a search warrant or other inspection by any governmental agency.

**15 Affirmative defense.** Adds § 152.35. Lists the conditions for using a medical purpose as an affirmative defense to a marijuana related criminal charge if (1) the person's charge occurred after the effective date of sections 152.22 to 152.38 but before registration for qualified patients is available or (2) the charge occurred after a valid application for a qualifying patient had been submitted but before the registry identification card was received.

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### **16**      **Supervision and revocation.** Adds § 152.36.

**Subd. 1. Suspension or revocation of registration certificate.** Allows the commissioner to suspend or revoke a medical marijuana organization's registration certificate for either multiple negligent violations or for a serious and knowing violation by the organization or any of its agents after a motion or complaint and investigation and opportunity for a public hearing at which the organization has an opportunity to be heard.

**Subd. 2. Notice.** Requires the commissioner to give notice to a registered organization of suspension or other sanctions and prohibits suspensions from lasting longer than six months.

**Subd. 3. Suspensions.** Allows a medical marijuana dispensary to cultivate and possess but not dispense, transfer or sell marijuana during suspension.

**Subd. 4. Diversions by medical marijuana dispensary.** Requires the commissioner to immediately revoke the registration certificate of a medical marijuana organization and prohibit its board and principal officers from service to other medical marijuana organizations, for the sale or transfer for value of marijuana to anyone other than a qualifying patient, designated caregiver, or other medical marijuana organization.

**Subd. 5. Diversion by cardholder.** Requires the commissioner to revoke the registry identification card and disqualify a cardholder from future participation if the cardholder sells marijuana to a person not allowed to possess marijuana for medical purposes under sections 152.22 to 152.38.

**Subd. 6. Revocation of registry identification card.** Allows the commissioner to revoke a registry identification card for persons who knowingly commit a serious known violation of this chapter.

**Subd. 7. Judicial review.** States that revocation is a final decision of the commissioner and is subject to judicial review.

### **17**      **Violations.** Adds § 152.37.

**Subd. 1. Failure to provide required notice; civil penalty.** States a registered cardholder or organization is guilty of a petty misdemeanor, punishable by a fine of no more than \$150, for failing to provide updates of registration information to the commissioner pursuant to section 152.27.

**Subd. 2. Intentional diversion; criminal penalty.** States a medical marijuana organization or its agent is guilty of a felony, punishable by imprisonment for not more than two years and/or payment of a fine of no more than \$3,000, for the sale or transfer for value of marijuana to a person other than a qualifying patient, designated cardholder, or other medical marijuana organization and, upon conviction, is prohibited from any continued or future affiliation with a medical marijuana organization.

**Subd. 3. Diversion by cardholder; criminal penalty.** States that a registered

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qualifying patient or designated caregiver is guilty of a felony punishable by imprisonment for not more than two years and/or a fine of not more than \$3,000, for the sale or transfer for value of marijuana to a person other than a qualifying patient, designated caregiver, or visiting qualifying patient.

**Subd. 4. Transfer of registry identification card; criminal penalty.** States a cardholder is guilty of a felony punishable by imprisonment for not more than two years and/or a fine of not more than \$3,000 for selling, transferring, loaning, or otherwise giving another person the cardholder's registered identification card. The punishment does not preclude other criminal punishments.

**Subd. 5. False statement; criminal penalty.** States that a person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$1,000, for intentionally making a false statement to law enforcement about facts relating to the medical use of marijuana in order to avoid arrest of prosecution. The punishment does not preclude other criminal punishments and conviction disqualifies the person from further participation under sections 152.22 to 152.38.

**Subd. 6. Submission of false records; criminal penalty.** States a person is guilty of a felony punishable by imprisonment for not more than two years and/or payment of a fine of not more than \$3,000, for knowingly submitting false records or documentation required to certify a medical marijuana organization.

**Subd. 7. Violation by practitioner; criminal penalty.** States that a practitioner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days and/or payment of a fine of not more than \$1,000, if the practitioner refers patients to a medical marijuana organization or a designated caregiver, advertises with a medical marijuana organization, or issues written certifications while holding a financial interest in a medical marijuana organization.

**Subd. 8. Breach of confidentiality; criminal penalty.** States that a person, including the commissioner or other state agency or local government, is guilty of a misdemeanor, for breaching confidentiality of information obtained pursuant to sections 152.22 to 152.38.

**Subd. 9. Other violations; civil penalty.** Allows a medical marijuana organization to be fined up to \$1,000 for violation of sections 152.22 to 152.38 or regulations pursuant to those chapters where no penalty has been specified, in addition to other applicable penalties in law.

**18** **Implementation.** Adds § 152.38. Lists the timeline by which the commissioner must be issuing registry identification cards, adopting rules, and establishing a verification system and lists the results of failure to take those actions within the specified period of time.

**19** **Fees.** Adds § 152.39. States that fees collected pursuant to sections 152.22 to 152.38 are annually appropriated and deposited in a state government special revenue fund, requires the revenue to be sufficient to implement and administer sections 152.22 to 152.38, and allows the commissioner to establish a sliding scale for patient application fees based on household income and accept private donations to reduce fees.

**Section**

- 20**      **Drug formulary.** Amends § 256B.0625, subdivision 13. Excludes marijuana for medical use from the medical assistance drug formulary.
- 21**      **Appropriations.** Lists a one time appropriation of \$256,000 in fiscal year 2014 and \$48,000 in fiscal year 2015 from the state government special revenue fund to the commissioner of health to implement sections 152.22 to 152.38
- 22**      **Effective date.** Provides the bill is effective July 1, 2014.