

House File 2589 - Reprinted

HOUSE FILE 2589

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 653)

(As Amended and Passed by the House March 10, 2020)

A BILL FOR

1 An Act concerning the medical cannabidiol Act and marijuana.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 96.5, Code 2020, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 14. *Marijuana or controlled substance use in*
4 *the workplace — disqualified.*

5 a. For purposes of this subsection, unless the context
6 otherwise requires:

7 (1) “*Controlled substance*” means the same as defined in
8 section 124.101.

9 (2) “*Marijuana*” means the same as defined in section 124E.2.

10 b. If the department finds that the individual became
11 separated from employment due to ingesting marijuana in the
12 workplace, working while under the influence of marijuana, or
13 testing positive for any other controlled substance, for which
14 the individual did not have a current prescription or which the
15 individual was otherwise using unlawfully, under a drug testing
16 policy pursuant to section 730.5 or any other procedures
17 provided by federal statutes, federal regulations, or orders
18 issued pursuant to federal law.

19 c. A disqualification under this subsection shall continue
20 until the individual has worked in and has been paid wages for
21 insured work equal to ten times the individual’s weekly benefit
22 amount, provided the individual is otherwise eligible.

23 Sec. 2. Section 124E.2, subsection 2, paragraph i, Code
24 2020, is amended to read as follows:

25 i. ~~Untreatable~~ Chronic pain.

26 Sec. 3. Section 124E.2, subsection 2, Code 2020, is amended
27 by adding the following new paragraphs:

28 NEW PARAGRAPH. j. Severe, intractable autism with
29 self-injurious or aggressive behaviors.

30 NEW PARAGRAPH. k. Post-traumatic stress disorder.

31 Sec. 4. Section 124E.2, subsections 5 and 6, Code 2020, are
32 amended to read as follows:

33 5. “*Health care practitioner*” means an individual licensed
34 under [chapter 148](#) to practice medicine and surgery or
35 osteopathic medicine and surgery, a physician assistant

1 licensed under chapter 148C, an advanced registered nurse
 2 practitioner licensed under chapter 152, or an advanced
 3 practice registered nurse under chapter 152E, who is a
 4 patient's primary care provider or a podiatrist licensed
 5 pursuant to chapter 149. ~~"Health care practitioner" shall not~~
 6 ~~include a physician assistant licensed under chapter 148C or~~
 7 ~~an advanced registered nurse practitioner licensed pursuant to~~
 8 ~~chapter 152 or 152E.~~

9 6. *"Medical cannabidiol"* means any pharmaceutical
 10 grade cannabinoid found in the plant Cannabis sativa L. or
 11 Cannabis indica or any other preparation thereof ~~that has~~
 12 ~~a tetrahydrocannabinol level of no more than three percent~~
 13 ~~and~~ that is delivered in a form recommended by the medical
 14 cannabidiol board, approved by the board of medicine, and
 15 adopted by the department pursuant to rule.

16 Sec. 5. Section 124E.2, Code 2020, is amended by adding the
 17 following new subsections:

18 NEW SUBSECTION. 4A. *"Employee"* means a natural person who
 19 is employed in this state for wages by an employer.

20 NEW SUBSECTION. 4B. *"Employer"* means a person who in this
 21 state employs for wages an employee.

22 NEW SUBSECTION. 5A. *"Laboratory"* means the state hygienic
 23 laboratory at the university of Iowa in Iowa City or any other
 24 independent medical cannabidiol testing facility accredited
 25 to standard ISO/IEC 17025 by an international organization
 26 for standards-approved accrediting body, with a controlled
 27 substance registration certificate from the United States drug
 28 enforcement administration and a certificate of registration
 29 from the board of pharmacy. For the purposes of this chapter,
 30 an independent laboratory is a laboratory operated by an
 31 entity that has no equity ownership in a medical cannabidiol
 32 manufacturer.

33 NEW SUBSECTION. 5B. *"Marijuana"* means any derivative of
 34 marijuana including but not limited to medical cannabidiol.

35 NEW SUBSECTION. 7A. *"Total tetrahydrocannabinol"*

1 means eighty-seven and seven-tenths percent of the
2 amount of tetrahydrocannabinolic acid plus the amount of
3 tetrahydrocannabinol.

4 Sec. 6. Section 124E.4, subsection 1, unnumbered paragraph
5 1, Code 2020, is amended to read as follows:

6 Subject to [subsection 7](#), the department may ~~approve the~~
7 ~~issuance of~~ issue a medical cannabidiol registration card ~~by~~
8 ~~the department of transportation~~ to a patient who:

9 Sec. 7. Section 124E.4, subsection 1, paragraph d,
10 unnumbered paragraph 1, Code 2020, is amended to read as
11 follows:

12 Submits an application to the department, on a form created
13 by the department, ~~in consultation with the department of~~
14 ~~transportation~~, that contains all of the following:

15 Sec. 8. Section 124E.4, subsection 1, paragraph f, Code
16 2020, is amended by striking the paragraph.

17 Sec. 9. Section 124E.4, subsection 2, unnumbered paragraph
18 1, Code 2020, is amended to read as follows:

19 A medical cannabidiol registration card issued to a patient
20 by the department ~~of transportation~~ pursuant to [subsection 1](#)
21 shall contain, at a minimum, all of the following:

22 Sec. 10. Section 124E.4, subsection 2, paragraph b, Code
23 2020, is amended by striking the paragraph.

24 Sec. 11. Section 124E.4, subsection 3, unnumbered paragraph
25 1, Code 2020, is amended to read as follows:

26 For a patient in a primary caregiver's care, subject to
27 subsection 7, the department may ~~approve the issuance of~~ issue
28 a medical cannabidiol registration card ~~by the department of~~
29 ~~transportation~~ to the primary caregiver who:

30 Sec. 12. Section 124E.4, subsection 3, paragraph b,
31 unnumbered paragraph 1, Code 2020, is amended to read as
32 follows:

33 Submits an application to the department, on a form created
34 by the department, ~~in consultation with the department of~~
35 ~~transportation~~, that contains all of the following:

1 Sec. 13. Section 124E.4, subsection 3, paragraph c, Code
2 2020, is amended by striking the paragraph.

3 Sec. 14. Section 124E.4, subsection 4, unnumbered paragraph
4 1, Code 2020, is amended to read as follows:

5 A medical cannabidiol registration card issued by the
6 department of ~~transportation~~ to a primary caregiver pursuant to
7 subsection 3 shall contain, at a minimum, all of the following:

8 Sec. 15. Section 124E.4, subsection 4, paragraph b, Code
9 2020, is amended by striking the paragraph.

10 Sec. 16. Section 124E.4, subsection 6, Code 2020, is amended
11 by striking the subsection.

12 Sec. 17. Section 124E.5, subsections 2 and 6, Code 2020, are
13 amended to read as follows:

14 2. The medical cannabidiol board shall convene at least
15 twice ~~but no more than four times~~ per year.

16 6. ~~The medical cannabidiol board may recommend a statutory~~
17 ~~revision to the definition of medical cannabidiol contained in~~
18 ~~this chapter~~ that increases the tetrahydrocannabinol level to
19 ~~more than three percent, however, any such recommendation shall~~
20 ~~be submitted to the general assembly during the regular session~~
21 ~~of the general assembly following such submission. The general~~
22 ~~assembly shall have the sole authority to revise the definition~~
23 ~~of medical cannabidiol for purposes of~~ this chapter.

24 Sec. 18. Section 124E.6, subsection 4, Code 2020, is amended
25 by striking the subsection and inserting in lieu thereof the
26 following:

27 4. A medical cannabidiol manufacturer shall contract with
28 a laboratory to perform spot-check testing of the medical
29 cannabidiol produced by the medical cannabidiol manufacturer
30 as provided in section 124E.7. The department shall require
31 that the laboratory report testing results to the medical
32 cannabidiol manufacturer and the department as determined by
33 the department by rule. If a medical cannabidiol manufacturer
34 contracts with a laboratory other than the state hygienic
35 laboratory at the university of Iowa in Iowa City, the

1 department shall approve the laboratory to perform testing
2 pursuant to this chapter.

3 Sec. 19. Section 124E.7, subsection 1, Code 2020, is amended
4 by striking the subsection and inserting in lieu thereof the
5 following:

6 1. A medical cannabidiol manufacturer shall contract with
7 a laboratory to perform spot-check testing of the medical
8 cannabidiol produced by the medical cannabidiol manufacturer as
9 to content, contamination, and consistency. The cost of all
10 laboratory testing shall be paid by the medical cannabidiol
11 manufacturer.

12 Sec. 20. Section 124E.9, Code 2020, is amended by adding the
13 following new subsections:

14 NEW SUBSECTION. 13. A medical cannabidiol dispensary
15 shall employ a pharmacist or pharmacy technician licensed or
16 registered pursuant to chapter 155A for the purpose of making
17 dosing recommendations.

18 NEW SUBSECTION. 14. A medical cannabidiol dispensary shall
19 not dispense more than a combined total of four and one-half
20 grams of total tetrahydrocannabinol to a patient and the
21 patient's primary caregiver in a ninety-day period, except as
22 provided in subsection 15.

23 NEW SUBSECTION. 15. A medical cannabidiol dispensary
24 may dispense more than a combined total of four and one-half
25 of total tetrahydrocannabinol to a patient and the patient's
26 primary caregiver in a ninety-day period if any of the
27 following apply:

28 a. The health care practitioner who certified the patient to
29 receive a medical cannabidiol registration card certifies that
30 patient's debilitating medical condition is a terminal illness
31 with a life expectancy of less than one year. A certification
32 issued pursuant to this paragraph shall include a total
33 tetrahydrocannabinol cap deemed appropriate by the patient's
34 health care practitioner.

35 b. The health care practitioner who certified the patient to

1 receive a medical cannabidiol registration card certifies that
 2 the patient has participated in the medical cannabidiol program
 3 and that the health care practitioner has determined that four
 4 and one-half of total tetrahydrocannabinol in a ninety-day
 5 period is insufficient to treat the patient's debilitating
 6 medical condition. A certification issued pursuant to this
 7 paragraph shall include a total tetrahydrocannabinol cap deemed
 8 appropriate by the patient's health care practitioner.

9 Sec. 21. Section 124E.11, subsection 1, paragraph b,
 10 subparagraph (1), subparagraph divisions (a) and (c), Code
 11 2020, are amended to read as follows:

12 (a) To authorized employees or agents of the department and
 13 ~~the department of transportation~~ as necessary to perform the
 14 duties of the department and ~~the department of transportation~~
 15 pursuant to [this chapter](#).

16 (c) To authorized employees of a medical cannabidiol
 17 dispensary, but only for the ~~purpose~~ purposes of verifying that
 18 a person is lawfully in possession of a medical cannabidiol
 19 registration card issued pursuant to [this chapter](#) and that a
 20 person has not purchased total tetrahydrocannabinol in excess
 21 of the amount authorized by this chapter.

22 Sec. 22. Section 124E.11, subsection 1, paragraph b,
 23 subparagraph (1), Code 2020, is amended by adding the following
 24 new subparagraph division:

25 NEW SUBPARAGRAPH DIVISION. (e) To a health care
 26 practitioner for the purpose of determining whether a patient
 27 seeking a written certification pursuant to section 124E.3 has
 28 already received a written certification from another health
 29 care practitioner.

30 Sec. 23. Section 124E.12, subsection 7, Code 2020, is
 31 amended to read as follows:

32 7. Notwithstanding any law to the contrary, the department,
 33 ~~the department of transportation~~, the governor, or any employee
 34 of any state agency shall not be held civilly or criminally
 35 liable for any injury, loss of property, personal injury, or

1 death caused by any act or omission while acting within the
2 scope of office or employment as authorized under [this chapter](#).

3 Sec. 24. NEW SECTION. **124E.20 Observational effectiveness**
4 **study.**

5 The department may conduct an observational effectiveness
6 study in cooperation with patients and health care
7 practitioners and pursuant to rules of the department in order
8 to study the effectiveness of medical cannabidiol in the
9 treatment of debilitating medical conditions.

10 Sec. 25. NEW SECTION. **124E.21 Employer regulation of**
11 **marijuana use.**

12 1. Nothing in this chapter shall require an employer
13 to permit or accommodate the use, consumption, possession,
14 transfer, display, transportation, distribution, sale, or
15 growing of marijuana in the workplace.

16 2. Nothing in this chapter shall prohibit an employer from
17 implementing policies restricting the use of marijuana by
18 employees for the purpose of promoting workplace health and
19 safety.

20 3. Nothing in this chapter shall prohibit an employer
21 from including in a contract with an employee a provision
22 prohibiting the use of marijuana.

23 4. Nothing in this chapter shall prohibit an employer
24 from establishing and enforcing a zero-tolerance drug policy
25 or a drug-free workplace by use of a drug testing policy in
26 accordance with section 730.5 or any other procedures provided
27 by federal statutes, federal regulations, or orders issued
28 pursuant to federal law.

29 Sec. 26. NEW SECTION. **124E.22 Regulation of marijuana**
30 **use by government medical assistance programs, private health**
31 **insurers, and other entities.**

32 Nothing in this chapter shall require a government
33 medical assistance program, private health insurer, workers'
34 compensation carrier, or self-insured employer providing
35 workers' compensation benefits to reimburse a person for costs

1 associated with the medical use of marijuana.

2 Sec. 27. NEW SECTION. 124E.23 Regulation of marijuana use
3 on property.

4 Nothing in this chapter shall require a person that owns,
5 occupies, or controls a property to allow the use, consumption,
6 possession, transfer, display, transportation, distribution,
7 sale, or growing of marijuana on or in that property.

8 Sec. 28. NEW SECTION. 124E.24 Limitation of liability.

9 Nothing in this chapter shall create any claim, cause of
10 action, sanction, or penalty, for discrimination or under
11 any other theory of liability, under chapter 216 or any
12 other provision of law, based on an act, omission, policy, or
13 contractual provision permissible under this chapter including
14 but not limited to refusing to hire, discharging, disciplining,
15 discriminating, retaliating, or otherwise taking any adverse
16 employment action against a person with respect to hiring,
17 tenure, or any terms, conditions, or privileges of employment.

18 Sec. 29. NEW SECTION. 124E.25 Cannabis-derived products
19 — exemption.

20 This chapter shall not apply to any cannabis-derived
21 investigational product or cannabis-derived product approved as
22 a prescription drug medication by the United States food and
23 drug administration.

24 Sec. 30. NEW SECTION. 124E.26 Applicability.

25 The provisions of this chapter apply notwithstanding any
26 other provision of law to the contrary.

27 Sec. 31. PROTECTION OF FEDERAL FUNDING. The department
28 of public health shall request guarantees from the agencies
29 of the federal government providing funding to educational
30 and long-term care facilities that facilities with policies
31 allowing patients to possess medical cannabidiol on the grounds
32 of the facilities consistent with chapter 124E or allowing
33 facility staff to administer medical cannabidiol to a patient
34 shall not lose eligibility for any federal funding due to such
35 policies.

1 Sec. 32. TRANSITION PROVISIONS. A medical cannabidiol
2 registration card issued prior to July 1, 2020, remains
3 effective and continues in effect as issued for the
4 twelve-month period following its issuance.