

22.186.11 97th Legislative Session 390



2022 South Dakota Legislature

Senate Bill 20

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Senators** Duhamel, Breitling, and Stalzer and **Representatives** Milstead, Bartels, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Perry, Rehfeldt, Wiese, and Willadsen at the request of the Marijuana Interim Study Committee

An Act to revise the medical purpose defense related to the medical use of cannabis.

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

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

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

- ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- ~~(2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, six cannabis plants minimum or as prescribed by a physician, and the cannabis produced by those plants;~~
- ~~(3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's~~

~~debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~

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

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

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

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

Section 2. That § 34-20G-53 be REPEALED:

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

Underscores indicate new language.

~~Overstrokes~~ indicate deleted language.