

Senate File 293 - Introduced

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SF 293 - Last 3 Actions:

Mar. 02 09 Introduced, referred to Human Resources. S.J. 481.

Mar. 04 09 Subcommittee, Bolkcom, Bartz, and Hatch. S.J. 514.

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A BILL FOR

1 An Act creating the medical marijuana Act including the creation
2 of compassion centers, and providing for civil and criminal
3 penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1240XS 83
6 rh/nh/5

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1 1 Section 1. Section 124.401, subsection 5, Code 2009, is
1 2 amended by adding the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
1 4 intentionally possess marijuana if the possession is in
1 5 accordance with the provisions of chapter 124D.
1 6 Sec. 2. NEW SECTION. 124D.1 CITATION.
1 7 This chapter shall be known and may be cited as the
1 8 "Medical Marijuana Act".
1 9 Sec. 3. NEW SECTION. 124D.2 DEFINITIONS.
1 10 As used in this chapter, the following definitions shall
1 11 apply:
1 12 1. "Cardholder" means a qualifying patient, a designated
1 13 caregiver, or a compassion center staff person who has been
1 14 issued and possesses a valid registry identification card.
1 15 2. "Compassion center staff person" means a principal
1 16 officer, board member, employee, volunteer, or agent of a
1 17 registered compassion center.
1 18 3. "Debilitating medical condition" means any of the
1 19 following:
1 20 a. Cancer, glaucoma, positive status for human
1 21 immunodeficiency virus, acquired immune deficiency syndrome,
1 22 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
1 23 agitation of Alzheimer's disease, nail patella, or the
1 24 treatment of any of these conditions.
1 25 b. A chronic or debilitating disease or medical condition
1 26 or its treatment that produces any of the following:
1 27 (1) Cachexia or wasting syndrome.
1 28 (2) Severe pain.
1 29 (3) Severe nausea.
1 30 (4) Seizures, including but not limited to those
1 31 characteristic of epilepsy.
1 32 (5) Severe and persistent muscle spasms, including but not
1 33 limited to those characteristic of multiple sclerosis.
1 34 c. Any other medical condition or its treatment approved
1 35 by the department.
2 1 4. "Department" means the department of public health.
2 2 5. "Designated caregiver" means a person twenty-one years
2 3 of age or older who has agreed to assist with a patient's
2 4 medical use of marijuana, and who has never been convicted of
2 5 a felony drug offense. A designated caregiver shall not

2 6 assist more than five qualifying patients with their medical
2 7 use of marijuana.

2 8 6. "Enclosed, locked facility" means a closet, room,
2 9 greenhouse, or other enclosed area equipped with locks or
2 10 other security devices that permit access only by a
2 11 cardholder.

2 12 7. "Felony drug offense" means a violation of a state or
2 13 federal controlled substance law that was classified as a
2 14 felony in the jurisdiction where the person was convicted.
2 15 "Felony drug offense" does not include any of the following:
2 16 a. An offense for which the sentence, including any term
2 17 of probation, incarceration, or supervised release, was
2 18 completed ten or more years earlier.
2 19 b. An offense that involved conduct that would have been
2 20 permitted under this chapter.

2 21 8. "Marijuana" means the same as defined in section
2 22 124.101, subsection 19.

2 23 9. "Medical use" means the acquisition, possession,
2 24 cultivation, manufacture, use, delivery, sale, transfer, or
2 25 transportation of marijuana or paraphernalia relating to the
2 26 administration of marijuana to treat or alleviate a registered
2 27 qualifying patient's debilitating medical condition or
2 28 symptoms associated with the patient's debilitating medical
2 29 condition.

2 30 10. "Possession" means the possession, acquisition,
2 31 manufacture, use, delivery, transfer, transportation, or
2 32 administration of marijuana by a qualifying patient or
2 33 designated caregiver possessing a valid registry
2 34 identification card, for certified medical use; provided that
2 35 the marijuana that may be possessed by a qualifying patient
3 1 and such qualifying patient's designated caregiver does not,
3 2 in total, exceed twelve plants and a total aggregate weight of
3 3 two and one-half ounces of usable marijuana.

3 4 11. "Practitioner" means the same as defined in section
3 5 155A.3, subsection 35.

3 6 12. "Qualifying patient" means a person who has been
3 7 diagnosed by a practitioner with a debilitating medical
3 8 condition.

3 9 13. "Registered compassion center" means a not-for-profit
3 10 organization registered pursuant to section 124D.4 that
3 11 acquires, possesses, cultivates, manufactures, delivers,
3 12 transfers, transports, supplies, or dispenses marijuana or
3 13 related supplies and educational materials to cardholders. A
3 14 registered compassion center may receive compensation for all
3 15 expenses incurred in its operation.

3 16 14. "Registry identification card" means a document issued
3 17 by the department that identifies a person as a registered
3 18 qualifying patient, registered designated caregiver, or a
3 19 registered compassion center staff person.

3 20 15. "Unusable marijuana" means marijuana seeds, stalks,
3 21 seedlings, and unusable roots. "Seedling" means a marijuana
3 22 plant without flowers which is less than twelve inches in
3 23 height and less than twelve inches in diameter.

3 24 16. "Usable marijuana" means the dried leaves and flowers
3 25 of the marijuana plant, and any mixture or preparation
3 26 thereof, but does not include the seeds, stalks, and roots of
3 27 the plant and does not include the weight of any nonmarijuana
3 28 ingredients combined with marijuana and prepared for
3 29 consumption as food or drink.

3 30 17. "Verification system" means a secure,
3 31 password-protected, internet-based system established by the
3 32 department pursuant to section 124D.6, that is accessible
3 33 twenty-four hours per day that law enforcement personnel and
3 34 compassion center staff persons may use to verify registry
3 35 identification cards established and maintained by the
4 1 department pursuant to section 124D.4.

4 2 18. "Visiting qualifying patient" means a qualifying
4 3 patient who is not a resident of this state or who has been a
4 4 resident of this state for less than thirty days.

4 5 19. "Written certification" means a document signed by a

4 6 practitioner, stating that in the practitioner's professional
4 7 opinion the patient is likely to receive therapeutic or
4 8 palliative benefit from the medical use of marijuana to treat
4 9 or alleviate the patient's debilitating medical condition or
4 10 symptoms associated with the debilitating medical condition.
4 11 A written certification shall be made only in the course of a
4 12 bona fide practitioner-patient relationship after the
4 13 practitioner has completed a full assessment of the qualifying
4 14 patient's medical history. The written certification shall
4 15 specify the qualifying patient's debilitating medical
4 16 condition.

4 17 Sec. 4. NEW SECTION. 124D.3 MEDICAL USE OF MARIJUANA.

4 18 1. A qualifying patient who has been issued and possesses
4 19 a registry identification card shall not be subject to arrest,
4 20 prosecution, or penalty in any manner, or denied any right or
4 21 privilege, including but not limited to a civil penalty or
4 22 disciplinary action by a business or occupational or
4 23 professional licensing board or bureau, for the medical use of
4 24 marijuana in accordance with this chapter, provided the
4 25 marijuana possessed by the qualifying patient does not exceed
4 26 the amount described in section 124D.2, subsection 10. The
4 27 marijuana plants shall be kept in an enclosed, locked
4 28 facility, unless the plants are being transported because the
4 29 qualifying patient is moving or if the plants are being
4 30 transported to the qualifying patient's property.

4 31 2. A designated caregiver who has been issued and
4 32 possesses a registry identification card shall not be subject
4 33 to arrest, prosecution, or penalty in any manner, or denied
4 34 any right or privilege, including but not limited to a civil
4 35 penalty or disciplinary action by a business or occupational
5 1 or professional licensing board or bureau, for assisting a
5 2 qualifying patient to whom the designated caregiver is
5 3 connected through the department's registration process with
5 4 the medical use of marijuana in accordance with this chapter,
5 5 provided that the marijuana possessed by the designated
5 6 caregiver does not exceed the amount described in section
5 7 124D.2, subsection 10, for each qualifying patient to whom the
5 8 designated caregiver is connected through the department's
5 9 registration process. The marijuana plants shall be kept in
5 10 an enclosed, locked facility, unless the plants are being
5 11 transported because the designated caregiver or qualifying
5 12 patient is moving or if the plants are being transported to a
5 13 designated caregiver's or a qualifying patient's property.
5 14 Registered designated caregivers and registered qualifying
5 15 patients are allowed to possess a reasonable amount of
5 16 unusable marijuana, including up to twelve seedlings, which
5 17 shall not be counted toward the limits in this section.

5 18 3. a. There shall be a presumption that a qualifying
5 19 patient or designated caregiver is engaged in the medical use
5 20 of marijuana pursuant to this chapter if the qualifying
5 21 patient or designated caregiver does both of the following:

- 5 22 (1) Possesses a registry identification card.
5 23 (2) Possesses an amount of marijuana that does not exceed
5 24 the amount allowed pursuant to section 124D.2, subsection 10.

5 25 b. The presumption may be rebutted by evidence that
5 26 conduct related to marijuana use or possession was not for the
5 27 purpose of treating or alleviating the qualifying patient's
5 28 debilitating medical condition or symptoms associated with the
5 29 debilitating medical condition, in accordance with this
5 30 chapter.

5 31 4. A registered qualifying patient or registered
5 32 designated caregiver shall not be subject to arrest,
5 33 prosecution, or penalty in any manner, or denied any right or
5 34 privilege, including but not limited to civil penalty or
5 35 disciplinary action by a business or occupational or
6 1 professional licensing board or bureau, for giving marijuana
6 2 to a registered qualifying patient or a registered designated
6 3 caregiver for the registered qualifying patient's medical use
6 4 where nothing of value is transferred in return, or to offer
6 5 to do the same, provided that the registered qualifying

6 6 patient or registered designated caregiver does not knowingly
6 7 cause the recipient to possess more marijuanathan is
6 8 permitted in section 124D.2, subsection 10.

6 9 5. A school, employer, or landlord shall not refuse to
6 10 enroll, employ, or lease to, or otherwise penalize, a person
6 11 solely on the basis of the person's status as a registered
6 12 qualifying patient or a registered designated caregiver,
6 13 unless failing to do so would put the school, employer, or
6 14 landlord in violation of federal law or cause the school,
6 15 employer, or landlord to lose a federal contract or funding.

6 16 6. For the purposes of medical care, including organ
6 17 transplants, a registered qualifying patient's authorized use
6 18 of marijuana in accordance with this chapter shall be
6 19 considered the equivalent of the authorized use of any other
6 20 medication used at the direction of a physician, and shall not
6 21 constitute the use of an illicit substance.

6 22 7. Unless a failure to do so would put an employer in
6 23 violation of federal law or federal regulations, an employer
6 24 may not discriminate against a person in hiring, termination,
6 25 or any term or condition of employment, or otherwise penalize
6 26 a person, if the discrimination is based upon any of the
6 27 following:

6 28 a. The person's status as a registered qualifying patient
6 29 or registered designated caregiver.

6 30 b. A registered qualifying patient's positive drug test
6 31 for marijuana components or metabolites, unless the patient
6 32 used, possessed, or was impaired by marijuana on the premises
6 33 of the place of employment or during the hours of employment.

6 34 8. A person shall not be denied custody or visitation of a
7 1 minor for acting in accordance with this chapter, unless the
7 2 person's behavior is such that it creates an unreasonable
7 3 danger to the safety of the minor as established by clear and
7 4 convincing evidence.

7 5 9. A registered designated caregiver may receive
7 6 compensation for costs associated with assisting a registered
7 7 qualifying patient's medical use of marijuana, provided that
7 8 the registered designated caregiver is connected to the
7 9 registered qualifying patient through the department's
7 10 registration process. Any such compensation shall not
7 11 constitute the sale of controlled substances.

7 12 10. A practitioner shall not be subject to arrest,
7 13 prosecution, or penalty in any manner, or denied any right or
7 14 privilege, including but not limited to a civil penalty or
7 15 disciplinary action by the board of medicine or by any other
7 16 business or occupational or professional licensing board or
7 17 bureau, solely for providing written certifications or for
7 18 otherwise stating that, in the practitioner's professional
7 19 opinion, a patient is likely to receive therapeutic benefit
7 20 from the medical use of marijuana to treat or alleviate the
7 21 patient's debilitating medical condition or symptoms
7 22 associated with the debilitating medical condition, provided
7 23 that nothing shall prevent a professional licensing board from
7 24 sanctioning a practitioner for failing to properly evaluate a
7 25 patient's medical condition or otherwise violating the
7 26 standard of care for evaluating medical conditions.

7 27 11. A person shall not be subject to arrest, prosecution,
7 28 or penalty in any manner, or denied any right or privilege,
7 29 including but not limited to a civil penalty or disciplinary
7 30 action by a business or occupational or professional licensing
7 31 board or bureau, for providing a registered qualifying patient
7 32 or a registered designated caregiver with marijuana
7 33 paraphernalia for purposes of a qualifying patient's medical
7 34 use of marijuana.

8 1 12. Any marijuana, marijuana paraphernalia, licit
8 2 property, or interest in licit property that is possessed,
8 3 owned, or used in connection with the medical use of
8 4 marijuana, as allowed under this chapter, or acts incidental
8 5 to such use, shall not be seized or forfeited.

8 6 13. A person shall not be subject to arrest, prosecution,
8 7 or penalty in any manner, or denied any right or privilege,

8 6 including but not limited to a civil penalty or disciplinary
8 7 action by a business or occupational or professional licensing
8 8 board or bureau, simply for being in the presence or vicinity
8 9 of the medical use of marijuana as allowed under this chapter,
8 10 or for assisting a registered qualifying patient with using or
8 11 administering marijuana.

8 12 14. A registry identification card, or its equivalent,
8 13 that is issued under the laws of another state, district,
8 14 territory, commonwealth, or insular possession of the United
8 15 States that allows the medical use of marijuana by a visiting
8 16 qualifying patient, shall have the same force and effect as a
8 17 registry identification card issued by the department for
8 18 purposes of this chapter.

8 19 Sec. 5. NEW SECTION. 124D.4 COMPASSION CENTERS.

8 20 1. The department shall register and issue a registration
8 21 certificate to the compassion center, with a random
8 22 twenty-digit alphanumeric identification number, within ninety
8 23 days of receiving an application for registration of a
8 24 compassion center if all of the following conditions are met:

8 25 a. The prospective compassion center provided all of the
8 26 following, in accordance with the department's rules:

8 27 (1) An application or renewal fee.

8 28 (2) The legal name of the compassion center.

8 29 (3) The physical address of the compassion center and the
8 30 physical address of one additional location, if any, where
8 31 marijuana will be cultivated, neither of which may be within
8 32 five hundred feet of a preexisting public or private school.

8 33 (4) The name, address, and date of birth of each
8 34 compassion center staff person.

8 35 (5) Operating regulations that include procedures for
9 1 oversight of the compassion center and procedures to ensure
9 2 accurate recordkeeping and security measures, in accordance
9 3 with rules adopted by the department pursuant to section
9 4 124D.5.

9 5 (6) If the city or county in which the compassion center
9 6 is to be located has enacted reasonable zoning ordinances, a
9 7 sworn and truthful statement that the compassion center is in
9 8 compliance with those ordinances.

9 9 b. The compassion center staff persons have not been
9 10 convicted of an offense that was classified as a felony in the
9 11 jurisdiction where the person was convicted, unless the
9 12 offense consisted of conduct for which this chapter would
9 13 likely have prevented a conviction, but the conduct either
9 14 occurred prior to the enactment of this chapter or was
9 15 prosecuted by an authority other than in this state.

9 16 c. None of the prospective principal officers or board
9 17 members of the compassion center have served as a principal
9 18 officer or board member for a compassion center that had its
9 19 registration certificate revoked.

9 20 d. None of the principal officers or board members of the
9 21 compassion center are younger than twenty-one years of age.

9 22 2. Except as provided in subsection 3, the department
9 23 shall issue each compassion center staff person a registry
9 24 identification card and log-in information for the
9 25 verification system within ten days of receipt of the person's
9 26 name, address, date of birth, and a fee in an amount
9 27 established by the department. Each registry identification
9 28 card shall specify that the cardholder is a compassion center
9 29 staff person of a registered compassion center and shall
9 30 contain all of the following information:

9 31 a. The name, address, and date of birth of the compassion
9 32 center staff person.

9 33 b. The legal name of the registered compassion center with
9 34 which the compassion center staff person is affiliated.

9 35 c. A random twenty-digit alphanumeric identification
10 1 number that is unique to the cardholder.

10 2 d. The date of issuance and expiration date of the
10 3 registry identification card.

10 4 e. A photograph, if the department requires inclusion of a
10 5 photograph by rule.

10 6 f. A statement signed by the prospective compassion center
10 7 staff person pledging not to divert marijuana to anyone who is
10 8 not allowed to possess marijuana pursuant to this chapter.

10 9 3. a. The department shall not issue a registry
10 10 identification card to a compassion center staff person who
10 11 has been convicted of an offense that was classified as a
10 12 felony in the jurisdiction where the person was convicted,
10 13 unless the offense consisted of conduct for which this chapter
10 14 would likely have prevented a conviction, but the conduct
10 15 either occurred prior to the enactment of this chapter or was
10 16 prosecuted by an authority other than in this state. The
10 17 department may conduct a background check of each compassion
10 18 center staff person in order to carry out this paragraph. The
10 19 department shall notify the registered compassion center in
10 20 writing of the reason for denying the registry identification
10 21 card.

10 22 b. The department shall not issue a registry
10 23 identification card to a compassion center staff person who is
10 24 under the age of twenty-one.

10 25 c. The department may refuse to issue a registry
10 26 identification card to a compassion center staff person who
10 27 has had a card revoked for violating this chapter.

10 28 4. a. A registered compassion center's registration
10 29 certificate and the registry identification card for each
10 30 compassion center staff person shall expire one year after the
10 31 date of issuance. The department shall issue a renewal
10 32 compassion center registration certificate within ten days to
10 33 any registered compassion center that submits a renewal fee,
10 34 provided that the compassion center's registration is not
10 35 suspended and has not been revoked. The department shall
11 1 issue a renewal registry identification card within ten days
11 2 to any compassion center staff person who submits a renewal
11 3 fee, except as otherwise provided.

11 4 b. A registry identification card of a compassion center
11 5 staff person shall expire and the person's log-in information
11 6 to the verification system shall be deactivated upon
11 7 notification by a registered compassion center that such
11 8 person ceases to work at the registered compassion center.

11 9 5. Registered compassion centers are subject to reasonable
11 10 inspection by the department. The department shall give at
11 11 least twenty-four hours' notice of an inspection.

11 12 6. a. A registered compassion center shall be operated on
11 13 a not-for-profit basis for the mutual benefit of its members
11 14 and patrons. The bylaws of a registered compassion center or
11 15 its contracts with patrons shall contain such provisions
11 16 relative to the disposition of revenues and receipts as may be
11 17 necessary and appropriate to establish and maintain its
11 18 not-for-profit status. However, a registered compassion
11 19 center need not be recognized as tax-exempt by the Internal
11 20 Revenue Service and is not required to incorporate pursuant to
11 21 chapter 504.

11 22 b. A registered compassion center shall notify the
11 23 department within ten days of when a compassion center staff
11 24 person ceases to work at the registered compassion center.

11 25 c. A registered compassion center shall notify the
11 26 department in writing of the name, address, and date of birth
11 27 of any new compassion center staff person and shall submit a
11 28 fee in an amount established by the department for a new
11 29 registry identification card before the new compassion center
11 30 staff person begins working at the registered compassion
11 31 center.

11 32 d. A registered compassion center shall implement
11 33 appropriate security measures to deter and prevent
11 34 unauthorized entrance into areas containing marijuana and the
11 35 theft of marijuana including the use of enclosed, locked
12 1 facilities for the storage of marijuana. The cultivation of
12 2 marijuana by a registered compassion center shall take place
12 3 in an enclosed, locked facility, which can only be accessed by
12 4 compassion center staff persons who are cardholders.

12 5 e. The operating documents of a registered compassion

12 6 center shall include procedures for the oversight of the
12 7 registered compassion center and procedures to ensure accurate
12 8 recordkeeping.

12 9 f. A registered compassion center is prohibited from
12 10 acquiring, possessing, cultivating, manufacturing, delivering,
12 11 transferring, transporting, supplying, or dispensing marijuana
12 12 for any purpose except to assist registered qualifying
12 13 patients with the medical use of marijuana directly or through
12 14 the qualifying patients' designated caregivers.

12 15 g. All principal officers and board members of a
12 16 registered compassion center shall be residents of the state
12 17 of Iowa.

12 18 h. The governing body of a county or city may enact
12 19 reasonable limits on the number of registered compassion
12 20 centers that can operate in their jurisdiction, and may enact
12 21 zoning ordinances that reasonably limit registered compassion
12 22 centers to certain areas of their jurisdiction.

12 23 7. a. Before marijuana may be dispensed to a registered
12 24 designated caregiver or a registered qualifying patient, a
12 25 compassion center staff person shall verify the registered
12 26 qualifying patient for whom the marijuana is intended, and the
12 27 registered designated caregiver transporting the marijuana to
12 28 the registered qualifying patient, if any, in the verification
12 29 system and shall verify all of the following:

12 30 (1) That the registry identification card presented to the
12 31 registered compassion center is valid.

12 32 (2) That the person presenting the registry identification
12 33 card is the person identified on the card.

12 34 (3) That the amount of marijuana to be dispensed would not
12 35 cause the registered qualifying patient to exceed a limit of
13 1 obtaining six ounces of marijuana during any thirty-day
13 2 period.

13 3 b. Upon verification of the information in paragraph "a",
13 4 but before dispensing marijuana to a registered qualifying
13 5 patient or a registered designated caregiver on a registered
13 6 qualifying patient's behalf, a compassion center staff person
13 7 shall make an entry in the verification system, specifying how
13 8 much marijuana is being dispensed to the registered qualifying
13 9 patient and whether it was dispensed directly to the
13 10 registered qualifying patient or to the registered qualifying
13 11 patient's registered designated caregiver. The entry must
13 12 include the date and time the marijuana was dispensed.

13 13 8. a. A registered compassion center shall not be subject
13 14 to a search, except inspection by the department pursuant to
13 15 subsection 5; seizure; or penalty, or be denied any right or
13 16 privilege, including but not limited to a civil penalty or
13 17 disciplinary action by a court or business licensing board or
13 18 entity, solely for acting in accordance with this chapter and
13 19 department rules to acquire, possess, cultivate, manufacture,
13 20 deliver, transfer, transport, supply, or dispense marijuana or
13 21 related supplies and educational materials to registered
13 22 qualifying patients, to registered designated caregivers on
13 23 behalf of registered qualifying patients, or to other
13 24 registered compassion centers.

13 25 b. A compassion center staff person shall not be subject
13 26 to arrest, prosecution, search, seizure, or penalty in any
13 27 manner or denied any right or privilege, including but not
13 28 limited to a civil penalty or disciplinary action by a court
13 29 or occupational or professional licensing board or entity,
13 30 solely for working for a registered compassion center in
13 31 accordance with this chapter and department rules to acquire,
13 32 possess, cultivate, manufacture, deliver, transfer, transport,
13 33 supply, or dispense marijuana or related supplies and
13 34 educational materials to registered qualifying patients, to
13 35 registered designated caregivers on behalf of registered
14 1 qualifying patients, or to other registered compassion
14 2 centers.

14 3 9. a. A registered qualifying patient shall not directly,
14 4 or through the registered qualifying patient's registered
14 5 designated caregiver, obtain more than six ounces of marijuana

14 6 from a registered compassion center in any thirty-day period.

14 7 b. A registered compassion center may not dispense,
14 8 deliver, or otherwise transfer marijuana to a person other
14 9 than another registered compassion center staff person, a
14 10 registered qualifying patient, or a registered qualifying
14 11 patient's registered designated caregiver.

14 12 c. A registered compassion center shall not obtain
14 13 marijuana from outside this state.

14 14 d. Except as otherwise provided, a person who has been
14 15 convicted of an offense that was classified as a felony in the
14 16 jurisdiction where the person was convicted shall not be
14 17 eligible to be a compassion center staff person. A person who
14 18 works as a compassion center staff person for a registered
14 19 compassion center in violation of this paragraph is subject to
14 20 a civil violation punishable by a penalty of up to one
14 21 thousand dollars. A subsequent violation of this paragraph is
14 22 an aggravated misdemeanor. In addition, such person's
14 23 registry identification card shall be immediately revoked.

14 24 e. A registered compassion center shall not acquire usable
14 25 marijuana or mature marijuana plants from any person other
14 26 than another registered compassion center, a registered
14 27 qualifying patient, or a registered designated caregiver. A
14 28 registered compassion center is only allowed to acquire usable
14 29 marijuana or marijuana plants from a registered qualifying
14 30 patient or a registered designated caregiver if the registered
14 31 qualifying patient or registered designated caregiver receives
14 32 no compensation for the marijuana. A registered compassion
14 33 center in violation of this paragraph shall have its
14 34 registration immediately revoked.

14 35 Sec. 6. NEW SECTION. 124D.5 DEPARTMENTAL RULES.

15 1 1. Not later than January 1, 2010, the department shall
15 2 adopt rules governing the manner in which the department shall
15 3 consider petitions from the public to approve debilitating
15 4 medical conditions in addition to those debilitating medical
15 5 conditions set forth in section 124D.2, subsection 3. In
15 6 considering such a petition, the department shall include
15 7 public notice of, and an opportunity to comment in a public
15 8 hearing upon, such petition. The department shall, after
15 9 hearing, approve or deny such petition within sixty days of
15 10 submission of the petition. The approval or denial of such a
15 11 petition shall be considered a final agency action subject to
15 12 judicial review pursuant to chapter 17A.

15 13 2. Not later than November 1, 2009, the department shall
15 14 adopt rules governing the manner in which the department shall
15 15 consider applications for and renewals of registry
15 16 identification cards and compassion center registration
15 17 certificates. The rules shall establish application and
15 18 renewal fees. The fees shall meet all of the following
15 19 requirements:

15 20 a. The total fees collected must generate revenues
15 21 sufficient to offset all expenses of implementing and
15 22 administering this chapter.

15 23 b. A compassion center application fee shall not exceed
15 24 five thousand dollars.

15 25 c. A compassion center renewal fee shall not exceed one
15 26 thousand dollars.

15 27 d. The total revenue generated from fees relating to a
15 28 single compassion center including the compassion center
15 29 application fee, renewal fee, and registry identification card
15 30 fees for compassion center staff persons must be sufficient to
15 31 offset all expenses of implementing and administering the
15 32 compassion center, including the verification system.

15 33 e. The department may establish a sliding scale of
15 34 application and renewal fees based upon a qualifying patient's
15 35 family income.

16 1 f. The department may accept donations from private
16 2 sources in order to reduce the application and renewal fees.

16 3 3. Not later than November 1, 2009, the department shall
16 4 adopt rules governing the manner in which it shall consider
16 5 applications for and renewals of registration certificates for

16 6 registered compassion centers, including reasonable rules
16 7 governing all of the following:
16 8 a. The form and content of registration and renewal
16 9 applications.
16 10 b. Minimum oversight requirements for registered
16 11 compassion centers.
16 12 c. Minimum recordkeeping requirements for registered
16 13 compassion centers.
16 14 d. Minimum security requirements for registered compassion
16 15 centers, which shall include that each registered compassion
16 16 center location must be protected by a fully operational
16 17 security alarm system.

16 18 e. Procedures for suspending or terminating the
16 19 registration of registered compassion centers that violate
16 20 this chapter or the rules adopted pursuant to this section.

16 21 4. The department shall design rules with the goal of
16 22 protecting against diversion and theft, without imposing an
16 23 undue burden on registered compassion centers or compromising
16 24 the confidentiality of registered qualifying patients and
16 25 their registered designated caregivers. Any dispensing
16 26 records that a registered compassion center is required to
16 27 keep shall track transactions according to the qualifying
16 28 patient's, designated caregiver's, or compassion center's
16 29 registry identification card number or registration
16 30 certificate number, as applicable, rather than their name, to
16 31 protect their confidentiality.

16 32 Sec. 7. NEW SECTION. 124D.6 REGISTRY IDENTIFICATION
16 33 CARDS == APPLICATION == FEE == PENALTY.

16 34 1. The department shall issue a registry identification
16 35 card to a qualifying patient who submits an application
17 1 containing all of the following:

17 2 a. A written certification.

17 3 b. An application or renewal fee.

17 4 c. The name, address, and date of birth of the qualifying
17 5 patient except that if the applicant is homeless, no address
17 6 is required.

17 7 d. The name, address, and telephone number of the
17 8 qualifying patient's practitioner.

17 9 e. The name, address, and date of birth of each designated
17 10 caregiver, if any, of the qualifying patient.

17 11 f. A statement signed by the qualifying patient pledging
17 12 not to divert marijuana to other persons not allowed to
17 13 possess marijuana under this chapter.

17 14 g. A signed statement from the designated caregiver
17 15 pledging not to divert marijuana to other persons not allowed
17 16 to possess marijuana under this chapter.

17 17 2. The department shall not issue a registry
17 18 identification card to a qualifying patient who is under the
17 19 age of eighteen unless all of the following requirements are
17 20 met:

17 21 a. The qualifying patient's practitioner has explained the
17 22 potential risks and benefits of the medical use of marijuana
17 23 to the qualifying patient and to a parent, guardian, or legal
17 24 custodian of the qualifying patient.

17 25 b. The parent, guardian, or person having legal custody
17 26 consents in writing to all of the following:

17 27 (1) Allowing the qualifying patient's medical use of
17 28 marijuana.

17 29 (2) Serving as the qualifying patient's designated
17 30 caregiver.

17 31 (3) Controlling the acquisition of the marijuana, the
17 32 dosage, and the frequency of the medical use of marijuana by
17 33 the qualifying patient.

17 34 3. The department shall verify the information contained
17 35 in an application or renewal application submitted pursuant to
18 1 this section, and shall approve or deny an application or
18 2 renewal application within fifteen days of receiving the
18 3 application or renewal application. The department may deny
18 4 an application or a renewal application only if the applicant
18 5 fails to provide the information required pursuant to this

18 6 section, the applicant previously had a registry
18 7 identification card revoked for violating this chapter, or the
18 8 department determines that the information provided was
18 9 falsified. Rejection of an application or a renewal
18 10 application is considered a final agency action subject to
18 11 judicial review pursuant to chapter 17A.

18 12 4. The department shall issue a registry identification
18 13 card to the designated caregiver, if any, who is named in a
18 14 qualifying patient's approved application or renewal
18 15 application, up to a maximum of one designated caregiver per
18 16 qualifying patient, provided the designated caregiver meets
18 17 the requirements of section 124D.2, subsection 5.

18 18 5. The department shall issue a registry identification
18 19 card to a qualifying patient and to the designated caregiver
18 20 within five days of approving an application or a renewal
18 21 application, which shall expire one year after the date of
18 22 issuance, unless a practitioner states in a written
18 23 certification that the qualifying patient would benefit from
18 24 the use of medical marijuana until a specified earlier or
18 25 later date. In such a case, the registry identification card
18 26 shall expire on that date. A registry identification card
18 27 shall contain all of the following:

18 28 a. The name, address, and date of birth of the qualifying
18 29 patient.

18 30 b. The name, address, and date of birth of the designated
18 31 caregiver, if any, of the qualifying patient.

18 32 c. The date of issuance and expiration date of the
18 33 registry identification card.

18 34 d. A random twenty-digit alphanumeric identification
18 35 number containing at least four numbers and at least four
19 1 letters that is unique to the cardholder.

19 2 e. If the cardholder is a designated caregiver, the random
19 3 identification number of the registered qualifying patient the
19 4 designated caregiver is assisting.

19 5 f. A photograph, if the department requires a photograph.

19 6 6. a. A registered qualifying patient shall notify the
19 7 department of any change in the registered qualifying
19 8 patient's name, address, or designated caregiver, or if the
19 9 registered qualifying patient ceases to have a debilitating
19 10 medical condition, within ten days of such change.

19 11 b. A registered qualifying patient who fails to notify the
19 12 department of any of the changes in paragraph "a" is subject
19 13 to a civil penalty of up to one hundred fifty dollars. If the
19 14 registered qualifying patient's certifying practitioner
19 15 notifies the department in writing that either the registered
19 16 qualifying patient no longer suffers from a debilitating
19 17 medical condition or that the practitioner no longer believes
19 18 the patient would receive therapeutic or palliative benefit
19 19 from the medical use of marijuana, the card shall become null
19 20 and void upon notification by the department to the qualifying
19 21 patient.

19 22 c. A registered designated caregiver or compassion center
19 23 staff person shall notify the department of any change in the
19 24 registered designated caregiver's or compassion center staff
19 25 person's name or address within ten days of such change. A
19 26 registered designated caregiver or compassion center staff
19 27 person who fails to notify the department of such change is
19 28 subject to a civil penalty of up to one hundred fifty dollars.

19 29 d. When a cardholder notifies the department of any
19 30 changes listed in this subsection and submits a fee of ten
19 31 dollars, the department shall issue the cardholder a new
19 32 registry identification card within ten days of receiving the
19 33 updated information. If the person notifying the department
19 34 is a registered qualifying patient, the department shall also
19 35 issue the patient's registered designated caregiver, if any, a
20 1 new registry identification card within ten days of receiving
20 2 the updated information.

20 3 e. When a registered qualifying patient ceases to be a
20 4 registered qualifying patient or changes the registered
20 5 qualifying patient's registered designated caregiver, the

20 6 department shall notify the designated caregiver within ten
20 7 days. The registered designated caregiver's protections as
20 8 provided in this chapter shall expire ten days after
20 9 notification by the department.

20 10 f. If a cardholder loses their registry identification
20 11 card, the cardholder shall notify the department and submit a
20 12 fee of ten dollars within ten days of losing the card. Within
20 13 five days after such notification, the department shall issue
20 14 a new registry identification card with a new random
20 15 identification number to the cardholder, and if the cardholder
20 16 is a registered qualifying patient, to the registered
20 17 qualifying patient's registered designated caregiver, if any.

20 18 7. Possession of, or application for, a registry
20 19 identification card shall not constitute probable cause or
20 20 reasonable suspicion and shall not be used to support the
20 21 search of the person or property of the person possessing or
20 22 applying for the registry identification card.

20 23 8. The following confidentiality rules shall apply to all
20 24 of the following:

20 25 a. Applications and supporting information submitted by a
20 26 qualifying patient or designated caregiver, including
20 27 information regarding the qualifying patient's designated
20 28 caregiver and practitioner, are confidential.

20 29 b. Applications and supporting information submitted by a
20 30 compassion center or compassion center staff person operating
20 31 in compliance with this chapter, including the physical
20 32 address of a compassion center, are confidential.

20 33 c. The department shall maintain a confidential list of
20 34 the persons to whom the department has issued registry
20 35 identification cards. Individual names and other identifying
21 1 information on the list shall be confidential and not subject
21 2 to disclosure, except to authorized employees of the
21 3 department as necessary to perform official duties of the
21 4 department.

21 5 d. Not later than November 1, 2009, the department shall
21 6 establish a secure, password-protected, internet-based
21 7 verification system that is operational twenty-four hours each
21 8 day, which law enforcement personnel and compassion center
21 9 staff persons can use to verify registry identification cards.
21 10 The verification system must allow law enforcement personnel
21 11 and compassion center staff persons to enter a registry
21 12 identification number to determine whether or not the number
21 13 corresponds with a current, valid registry identification
21 14 card. The system shall disclose the name and photograph of
21 15 the cardholder, but shall not disclose the cardholder's
21 16 address. The system shall also display the amount and
21 17 quantity of marijuana that each registered qualifying patient
21 18 received from compassion centers during the past sixty days.
21 19 The system shall allow compassion center staff persons to add
21 20 the amount of marijuana dispensed to registered qualifying
21 21 patients, directly or through their designated caregivers, and
21 22 the date and time the marijuana was dispensed. The
21 23 verification system shall include all of the following data
21 24 security features:

21 25 (1) Any time an authorized user enters five invalid
21 26 registry identification numbers within five minutes, that user
21 27 cannot log in to the system again for ten minutes.

21 28 (2) The server must reject any log-in request that is not
21 29 over an encrypted connection.

21 30 e. Any records, including computer hard drives, containing
21 31 cardholder information must be destroyed once they are no
21 32 longer in use, and the department shall retain a signed
21 33 statement from a department employee confirming the
21 34 destruction.

21 35 f. (1) A person, including an employee or official of the
22 1 department or another state agency or local government, who
22 2 breaches the confidentiality of information obtained pursuant
22 3 to this chapter commits a serious misdemeanor punishable by
22 4 imprisonment of up to one hundred days and a fine of up to one
22 5 thousand dollars.

22 6 (2) Notwithstanding this paragraph "f", this section does
22 7 not prevent the following notifications:
22 8 (a) Department employees may notify law enforcement about
22 9 falsified or fraudulent information submitted to the
22 10 department, if the employee who suspects that falsified or
22 11 fraudulent information has been submitted confers with the
22 12 employee's supervisor or at least one other employee of the
22 13 department and the employee and the employee's supervisor or
22 14 the employee and the employee's coemployee agree that
22 15 circumstances exist that warrant reporting.
22 16 (b) The department may notify state or local law
22 17 enforcement about apparent criminal violations of this
22 18 chapter, provided that the employee who suspects the offense
22 19 confers with the employee's supervisor and both agree that
22 20 circumstances exist that warrant reporting.
22 21 (c) A compassion center staff person may notify the
22 22 department of a suspected violation or attempted violation of
22 23 this chapter or the rules adopted pursuant to this chapter.

22 24 9. The department shall submit an annual report to the
22 25 general assembly by January 15 of each year that does not
22 26 disclose any identifying information about cardholders,
22 27 compassion centers, or practitioners, but does contain, at a
22 28 minimum, all of the following information:

22 29 a. The number of applications and renewal applications
22 30 submitted for registry identification cards.

22 31 b. The number of registered qualifying patients and
22 32 registered designated caregivers in each county.

22 33 c. The nature of the debilitating medical conditions of
22 34 the qualifying patients.

22 35 d. The number of registry identification cards revoked.

23 1 e. The number of practitioners providing written
23 2 certifications for qualifying patients.

23 3 f. The number of registered compassion centers.

23 4 g. The number of compassion center staff persons.

23 5 10. If a state or local law enforcement agency encounters
23 6 an individual who, during the course of an investigation,
23 7 credibly asserts that the individual is a registered
23 8 cardholder or an entity whose personnel credibly assert that
23 9 it is a compassion center, the law enforcement agency shall
23 10 not provide any information from any marijuana-related
23 11 investigation of the person to any law enforcement authority
23 12 that does not recognize the protection of this chapter. Any
23 13 prosecution of the individual or entity for a violation of
23 14 this chapter shall be conducted pursuant to the laws of this
23 15 state.

23 16 11. The application for a qualifying patient's registry
23 17 identification card shall include a question on whether the
23 18 patient would like the department to notify the patient about
23 19 any clinical studies regarding marijuana's risks or efficacy
23 20 that seek human subjects.

23 21 Sec. 8. NEW SECTION. 124D.7 SCOPE OF CHAPTER.

23 22 1. This chapter does not permit any person to do any of
23 23 the following nor does it prevent the imposition of any civil,
23 24 criminal, or other penalties for such actions:

23 25 a. Undertake any task under the influence of marijuana,
23 26 when doing so would constitute negligence or professional
23 27 malpractice.

23 28 b. Possess marijuana, or otherwise engage in the medical
23 29 use of marijuana, in any of the following places:

23 30 (1) In a school bus.

23 31 (2) On the grounds of any preschool or primary or
23 32 secondary school.

23 33 (3) In any correctional facility.

23 34 c. Smoke marijuana in any of the following:

23 35 (1) Any form of public transportation.

24 1 (2) Any public place.

24 2 d. Operate, navigate, or be in actual physical control of
24 3 any motor vehicle, aircraft, or motorboat while under the
24 4 influence of marijuana. However, a registered qualifying
24 5 patient shall not be considered to be under the influence of

24 6 marijuana solely because of the presence of metabolites or
24 7 components of marijuana that appear in insufficient
24 8 concentration to cause impairment.

24 9 e. Use marijuana if that person does not have a serious or
24 10 debilitating medical condition.

24 11 2. Nothing in this chapter shall be construed to require
24 12 any of the following:

24 13 a. A government medical assistance program or private
24 14 health insurer to reimburse a person for costs associated with
24 15 the medical use of marijuana.

24 16 b. A person or establishment in lawful possession of
24 17 property to allow a guest, client, customer, or other visitor
24 18 to use marijuana on or in that property. This chapter shall
24 19 not limit a person or entity in lawful possession of property
24 20 from removing a person who uses marijuana without permission
24 21 and from seeking civil and criminal penalties for the
24 22 unauthorized use of marijuana on their property.

24 23 c. An employer to accommodate the ingestion of marijuana
24 24 in any workplace or any employee working while under the
24 25 influence of marijuana, provided that a qualifying patient
24 26 shall not be considered to be under the influence of marijuana
24 27 solely because of the presence of metabolites or components of
24 28 marijuana that appear in insufficient concentration to cause
24 29 impairment. This section shall not limit an employer's
24 30 ability to discipline an employee for ingesting marijuana in
24 31 the workplace or working while under the influence of
24 32 marijuana.

24 33 3. Fraudulent representation to a law enforcement official
24 34 of any fact or circumstance relating to the medical use of
24 35 marijuana to avoid arrest or prosecution is a simple
25 1 misdemeanor, punishable by a fine of five hundred dollars, in
25 2 addition to any other penalties that may apply for making a
25 3 false statement or for the use of marijuana other than use
25 4 undertaken pursuant to this chapter.

25 5 Sec. 9. NEW SECTION. 124D.8 AFFIRMATIVE DEFENSES ==
25 6 DISMISSAL.

25 7 1. Except as provided in section 124D.7, a qualifying
25 8 patient may assert the medical purpose for using marijuana as
25 9 a defense to any prosecution of an offense involving marijuana
25 10 intended for the patient's medical use, and this defense shall
25 11 be presumed valid where the evidence shows all of the
25 12 following:

25 13 a. A practitioner has stated that, in the practitioner's
25 14 professional opinion, after having completed a full assessment
25 15 of the patient's medical history and current medical condition
25 16 made in the course of a bona fide practitioner-patient
25 17 relationship, the patient is likely to receive therapeutic or
25 18 palliative benefit from the medical use of marijuana to treat
25 19 or alleviate the patient's debilitating medical condition or
25 20 symptoms associated with the patient's debilitating medical
25 21 condition.

25 22 b. The patient and the patient's designated caregiver, if
25 23 any, were collectively in possession of a quantity of
25 24 marijuana that was not more than was reasonably necessary to
25 25 ensure the uninterrupted availability of marijuana for the
25 26 purpose of treating or alleviating the patient's debilitating
25 27 medical condition or symptoms associated with the patient's
25 28 debilitating medical condition.

25 29 c. The patient was engaged in the acquisition, possession,
25 30 cultivation, manufacture, use, or transportation of marijuana
25 31 or paraphernalia relating to the administration of marijuana
25 32 to treat or alleviate the patient's debilitating medical
25 33 condition or symptoms associated with the patient's
25 34 debilitating medical condition.

25 35 2. A person may assert the medical purpose for using
26 1 marijuana in a motion to dismiss and the charges shall be
26 2 dismissed following an evidentiary hearing where the person
26 3 shows all of the elements listed in subsection 1.

26 4 3. If a patient or a patient's designated caregiver
26 5 demonstrates the patient's medical purpose for using marijuana

26 6 pursuant to this section, the patient and the patient's
26 7 designated caregiver shall not be subject to any of the
26 8 following for the patient's use of marijuana for medical
26 9 purposes:

26 10 a. Disciplinary action by a business or occupational or
26 11 professional licensing board or bureau.

26 12 b. Forfeiture of any interest in or right to nonmarijuana,
26 13 licit property.

26 14 Sec. 10. NEW SECTION. 124D.9 ENFORCEMENT.

26 15 1. If the department fails to issue a valid registry
26 16 identification card in response to a valid application or
26 17 renewal application submitted pursuant to this chapter within
26 18 twenty days of its submission, the registry identification
26 19 card shall be deemed granted and a copy of the registry
26 20 identification application or renewal application shall be
26 21 deemed a valid registry identification card.

26 22 2. If at any time after January 1, 2010, including if it
26 23 has not promulgated rules allowing qualifying patients to
26 24 submit applications, a notarized statement by a qualifying
26 25 patient containing the information required in an application,
26 26 pursuant to section 124D.6, together with a written
26 27 certification, shall be deemed a valid registry identification
26 28 card.

26 29 Sec. 11. NEW SECTION. 124D.10 SEVERABILITY CLAUSE.

26 30 If any provision of this chapter or its application to any
26 31 person or circumstance is held invalid, the invalidity does
26 32 not affect other provisions or application of this chapter
26 33 which can be given effect without the invalid provision or
26 34 application, and to this end the provisions of this chapter
26 35 are severable.

27 1 Sec. 12. Section 453B.6, Code 2009, is amended by adding
27 2 the following new unnumbered paragraph:

27 3 NEW UNNUMBERED PARAGRAPH. A person who is in possession of
27 4 marijuana for medical purposes in accordance with chapter 124D
27 5 is in lawful possession of a taxable substance and is not
27 6 subject to the requirements of this chapter.

27 7 EXPLANATION

27 8 This bill establishes Code chapter 124D, the medical
27 9 marijuana Act, relating to the possession and use of marijuana
27 10 for therapeutic purposes, provides for the creation of
27 11 compassion centers, and provides for civil and criminal
27 12 penalties and fees.

27 13 The bill provides that a qualifying patient who has been
27 14 issued and possesses a registry identification card shall not
27 15 be subject to arrest, prosecution, or civil penalty, or denied
27 16 any right or privilege, for the qualifying patient's medical
27 17 use of marijuana pursuant to the provisions of the bill,
27 18 provided the qualifying patient possesses an amount of
27 19 marijuana that does not exceed 12 marijuana plants and 2.5
27 20 ounces of usable marijuana. Such marijuana plants shall be
27 21 kept in an enclosed, locked facility unless the plants are
27 22 being transported because the qualifying patient is moving or
27 23 if the plants are being transported to the qualifying
27 24 patient's property. The same qualifications apply to a
27 25 designated caregiver assisting a qualifying patient.

27 26 The bill defines a qualifying patient as a person who has
27 27 been diagnosed by a practitioner with a debilitating medical
27 28 condition defined as cancer, glaucoma, positive status for
27 29 human immunodeficiency virus, acquired immune deficiency
27 30 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
27 31 disease, agitation of Alzheimer's disease, nail patella, or a
27 32 chronic or debilitating medical condition that produces one or
27 33 more of the following: cachexia or wasting syndrome, severe
27 34 pain, severe nausea, certain seizures, or certain muscle
27 35 spasms. A designated caregiver is defined as a person, 21 or
28 1 older, who has agreed to assist with a patient's medical use
28 2 of marijuana who has never been convicted of a felony drug
28 3 offense. A designated caregiver shall not assist more than
28 4 five qualifying patients. A practitioner is defined as a
28 5 physician, dentist, podiatric physician, veterinarian, or

28 6 other person licensed or registered to distribute or dispense
28 7 a prescription drug or device in the course of professional
28 8 practice in Iowa or a person licensed by another state in a
28 9 health field in which, under Iowa law, licensees in this state
28 10 may legally prescribe drugs.

28 11 The bill provides for the creation of compassion centers.
28 12 The bill defines a registered compassion center as a
28 13 not-for-profit organization registered by the department that
28 14 acquires, possesses, cultivates, manufactures, delivers,
28 15 transfers, transports, supplies, or dispenses marijuana or
28 16 related supplies and educational materials to qualifying
28 17 patients, designated caregivers, and compassion center staff
28 18 persons who possess a valid registry identification card.
28 19 "Compassion center staff person" is defined as a principal
28 20 officer, board member, employee, volunteer, or agent of a
28 21 compassion center. The bill provides specific guidelines for
28 22 regulation of compassion centers and compassion center staff
28 23 persons by the department including rules specific to the
28 24 creation of a verification system to verify registry
28 25 identification cards. A person who was convicted of a felony
28 26 offense shall not work in a compassion center, unless
28 27 otherwise permitted by the department. A first violation of
28 28 this provision is punishable by a civil penalty of up to
28 29 \$1,000. A subsequent violation is an aggravated misdemeanor.

28 30 The bill provides that the department of public health
28 31 (department) shall adopt rules for implementing the bill
28 32 including rules relating to the consideration of petitions
28 33 from the public to add additional debilitating medical
28 34 conditions to the list of debilitating medical conditions
28 35 specified in the bill, rules relating to applications and
29 1 renewal applications for registry identification cards issued
29 2 to qualifying patients and designated caregivers, and rules
29 3 relating to registered compassion center registration
29 4 certificates. The department shall establish fees which shall
29 5 meet certain requirements.

29 6 The bill provides that the department shall issue a
29 7 registry identification card to a qualifying patient who
29 8 submits certain specified information to the department. The
29 9 department shall not issue a registry identification card to a
29 10 qualifying patient who is under the age of 18 unless the
29 11 qualifying patient's practitioner has explained the potential
29 12 risks and benefits of the medical use of marijuana to the
29 13 qualifying patient and to the qualifying patient's parent,
29 14 guardian, or legal representative and such persons provide the
29 15 appropriate consent. The department shall also issue a
29 16 registry identification card to each designated caregiver
29 17 named in a qualifying patient's approved application for a
29 18 registry identification card, up to a maximum of one
29 19 designated caregiver per qualifying patient. The bill
29 20 requires the department to submit an annual report to the
29 21 general assembly by January 15 of each year concerning
29 22 information related to registry identification cards.

29 23 The bill provides that a registered qualifying patient or a
29 24 registered designated caregiver who loses their registration
29 25 identification card or who makes changes to certain
29 26 information relevant to their registration identification card
29 27 shall submit a fee of \$10 for each replacement card. A
29 28 registered qualifying patient or a registered designated
29 29 caregiver who fails to notify the department of any changes in
29 30 information relevant to the registration identification card
29 31 is subject to a civil penalty of up to \$150.

29 32 The bill provides that applications and supporting
29 33 information submitted by a qualifying patient, designated
29 34 caregiver, practitioner, compassion center, or compassion
29 35 center staff persons, are confidential. The bill also
30 1 provides that a person, including an employee or official of
30 2 the department, who disseminates information received in
30 3 connection with an application for a registry identification
30 4 card pursuant to the bill, is guilty of a serious misdemeanor
30 5 and is subject to confinement in jail for up to 100 days and a

30 6 fine of \$1,000.

30 7 The bill provides that the bill does not permit a
30 8 registered qualifying patient to undertake any task under the
30 9 influence of marijuana when doing so would constitute
30 10 negligence or professional malpractice. The bill prohibits
30 11 the possession and use of medical marijuana in certain places
30 12 and during certain activities. The bill provides that any
30 13 fraudulent representation to a law enforcement official
30 14 relating to the use of medical marijuana is a simple
30 15 misdemeanor, punishable by a fine of up to \$500.

30 16 The bill provides that a patient or a patient's designated
30 17 caregiver, who is not a cardholder, may assert the medical
30 18 purpose for using marijuana as a defense to any prosecution
30 19 involving marijuana where the evidence shows that a
30 20 practitioner has stated that the patient who is a patient of
30 21 the practitioner is likely to receive therapeutic or
30 22 palliative benefit from the medical use of marijuana to treat
30 23 or alleviate the patient's debilitating medical condition, the
30 24 patient and the patient's designated caregiver, if any, were
30 25 collectively in possession of a quantity of marijuana that was
30 26 not more than was reasonably necessary to ensure the
30 27 uninterrupted availability of marijuana for the purpose of
30 28 treating or alleviating the patient's debilitating medical
30 29 condition, and the patient and the patient's caregiver, if
30 30 any, were engaged in the acquisition, possession, cultivation,
30 31 manufacture, use, delivery, transfer, or transportation of
30 32 marijuana or paraphernalia relating to the administration of
30 33 marijuana to treat or alleviate the patient's debilitating
30 34 medical condition.

30 35 The bill amends Code section 124.401, relating to
31 1 prohibited acts involving controlled substances, to provide
31 2 that it is lawful for a person to knowingly or intentionally
31 3 possess marijuana if the possession is in accordance with the
31 4 provisions of the bill. The bill also amends Code section
31 5 453B.6, relating to tax stamps for controlled substances, to
31 6 specify that possession in accordance with the provisions of
31 7 the bill is lawful possession and a tax stamp is not required.

31 8 LSB 1240XS 83

31 9 rh/nh/5.2