A BILL FOR

An Act relating to the creation of a medical marijuana Act including the creation of nonprofit dispensaries, and providing for civil and criminal penalties and fees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. Section 124.401, subsection 5, Code 2011, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person may knowingly or intentionally possess marijuana if the possession is in accordance with the provisions of chapter 124D.

Sec. 2. NEW SECTION. 124D.1 Citation.

This chapter shall be known and may be cited as the "Medical Marijuana Act".

Sec. 3. NEW SECTION. 124D.2 Definitions.

As used in this chapter, the following definitions shall apply:

1. "Cardholder" means a qualifying patient, a primary caregiver, or a principal officer, board member, employee, or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.

2. "Debilitating medical condition" means any of the following:
   a. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, nail patella, or the treatment of any of these conditions.
   b. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than six months.
   c. A chronic or debilitating disease or medical condition or its treatment that produces any of the following:
      (1) Cachexia or wasting syndrome.
      (2) Severe nausea.
      (3) Seizures, including but not limited to those characteristic of epilepsy.
      (4) Severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.
   d. Any other medical condition or its treatment approved by
the department.

3. "Department" means the department of public health.

4. "Enclosed, locked facility" means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

5. "Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. "Felony drug offense" does not include any of the following:

a. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier.

b. An offense that involved conduct that would have been permitted under this chapter.

6. "Marijuana" means the same as defined in section 124.101, subsection 19.

7. "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

8. "Nonprofit dispensary" means a not-for-profit entity registered under section 124D.4 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit dispensary is a primary caregiver.

9. "Physician" means an individual licensed under the provisions of chapter 148 to practice medicine and surgery or osteopathic medicine and surgery.

10. "Primary caregiver" means a person twenty-one years of age or older who has agreed to assist with a qualifying patient's medical use of marijuana and who has never been convicted of a felony drug offense, and includes a nonprofit...
1 dispensary. Unless the primary caregiver is a nonprofit
dispensary, the primary caregiver shall not assist more than
five qualifying patients with their medical use of marijuana.

11. "Qualifying patient" means a person who has been
diagnosed by a physician with a debilitating medical condition.

12. "Registered nonprofit dispensary" means a nonprofit
dispensary registered by the department pursuant to section
124D.4.

13. "Registry identification card" means a document issued
by the department that identifies a person as a registered
qualifying patient, registered primary caregiver, or a
principal officer, board member, employee, or agent of a
nonprofit dispensary.

14. "Unusable marijuana" means marijuana seeds, stalks,
seedlings, and unusable roots. "Seedling" means a marijuana
plant without flowers which is less than twelve inches in
height and less than twelve inches in diameter.

15. "Usable marijuana" means the dried leaves and flowers of
the marijuana plant, and any mixture or preparation thereof,
but does not include the seeds, stalks, and roots of the
plant and does not include the weight of other ingredients in
marijuana prepared for consumption as food.

16. "Visiting qualifying patient" means a patient with a
debilitating medical condition who is not a resident of this
state or who has been a resident of this state for less than
thirty days.

17. "Written certification" means a document signed by
a physician, stating that in the physician's professional
opinion the patient is likely to receive therapeutic or
palliative benefit from the medical use of marijuana to treat
or alleviate the patient's debilitating medical condition or
symptoms associated with the debilitating medical condition.
A written certification shall be made only in the course of a
bona fide physician-patient relationship after the physician
has completed a full assessment of the qualifying patient's
medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

Sec. 4. NEW SECTION. 124D.3 Medical use of marijuana.

1. A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter, provided the marijuana possessed by the qualifying patient:

a. Is not more than two and one-half ounces of usable marijuana.

b. If the qualifying patient has not designated a primary caregiver to cultivate marijuana for the qualifying patient, does not exceed six marijuana plants, which must be kept in an enclosed, locked facility unless the plants are being transported because the qualifying patient is moving or the plants are being transported to the qualifying patient's property.

2. A primary caregiver other than a nonprofit dispensary who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the primary caregiver is connected through the department's registration process with the medical use of marijuana in accordance with this chapter, provided that the marijuana possessed by the primary caregiver:

a. Is not more than two and one-half ounces of usable marijuana for each qualifying patient to whom the primary caregiver is connected through the department's registration process.

b. For each qualifying patient who has designated the

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primary caregiver to cultivate marijuana for the qualifying
patient, does not exceed six marijuana plants, which must be
kept in an enclosed, locked facility unless the plants are
being transported because the primary caregiver is moving.
3. Any incidental amount of seeds, stalks, and unusable
roots shall be allowed and shall not be included in the amounts
specified in subsections 1 and 2.
4. a. There shall be a presumption that a qualifying
patient or primary caregiver is engaged in the medical use of
marijuana pursuant to this chapter if the qualifying patient or
primary caregiver does both of the following:
(1) Possesses a registry identification card.
(2) Possesses an amount of marijuana that does not exceed
the amount allowed under this chapter.

b. The presumption may be rebutted by evidence that
conduct related to marijuana use or possession was not for the
purpose of treating or alleviating the qualifying patient’s
debilitating medical condition or symptoms associated with
the debilitating medical condition, in accordance with this
chapter.
5. A cardholder shall not be subject to arrest, prosecution,
or penalty in any manner, or denied any right or privilege,
including but not limited to civil penalty or disciplinary
action by a business or occupational or professional licensing
board or bureau, for giving an amount of marijuana the person
is allowed to possess under subsection 1 or 2 to a cardholder
for a registered qualifying patient’s medical use where nothing
of value is transferred in return, or to offer to do the same.
6. A school, employer, or landlord shall not refuse to
enroll, employ, or lease to, or otherwise penalize, a person
solely on the basis of the person’s status as a registered
qualifying patient or a registered primary caregiver, unless
failing to do so would put the school, employer, or landlord
in violation of federal law or cause the school, employer, or
landlord to lose a federal contract or funding.
7. A person shall not be denied custody or visitation of a minor for acting in accordance with this chapter, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

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

9. A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the board of medicine or by any other business or occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

10. A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.
11. Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana, as allowed under this chapter, or property incidental to such use, shall not be seized or forfeited.

12. A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter, or for assisting a registered qualifying patient with using or administering marijuana.

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

Sec. 5. NEW SECTION. 124D.4 Nonprofit dispensaries.

1. The department shall register and issue a registration certificate to a nonprofit dispensary within thirty days of receiving an application for registration of a nonprofit dispensary if the prospective nonprofit dispensary provided all of the following, in accordance with the department’s rules:

a. An application fee of five thousand dollars.

b. The legal name of the nonprofit dispensary.

c. The physical address of the nonprofit dispensary and the physical address of one additional location, if any, where marijuana will be cultivated.

d. The name, address, and date of birth of each principal officer and board member of the nonprofit dispensary.

e. The name, address, and date of birth of any person who is an agent of or employed by the nonprofit dispensary.
2. The department shall track the number of registered qualifying patients who designate a nonprofit dispensary as a primary caregiver and issue to each nonprofit dispensary a written statement of the number of qualifying patients who have designated the nonprofit dispensary to cultivate marijuana for them. This statement shall be updated each time a registered qualifying patient newly designates the nonprofit dispensary or ceases to designate the nonprofit dispensary and may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week.

3. Except as provided in subsection 4, the department shall issue each principal officer, board member, agent, or employee of a nonprofit dispensary a registry identification card within ten days of receipt of the person's name, address, date of birth, and a fee in an amount established by the department. Each registry identification card shall specify that the cardholder is a principal officer, board member, agent, or employee of a nonprofit dispensary and shall contain all of the following information:

a. The name, address, and date of birth of the principal officer, board member, agent, or employee.

b. The legal name of the nonprofit dispensary with which the principal officer, board member, agent, or employee is affiliated.

c. A random identification number that is unique to the cardholder.

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

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

4. The department shall not issue a registry identification card to any principal officer, board member, agent, or employee of a nonprofit dispensary who has been convicted of a felony...
1 drug offense. The department may conduct a background check
2 of each principal officer, board member, agent, or employee
3 in order to carry out this subsection. The department shall
4 notify the nonprofit dispensary in writing of the reason for
5 denying the registry identification card.
6 5. a. A nonprofit dispensary registration certificate and
7 the registry identification card for each principal officer,
8 board member, agent, or employee shall expire one year after
9 the date of issuance. The department shall issue a renewal
10 nonprofit dispensary registration certificate or renewal
11 registry identification card within ten days to any person who
12 complies with the requirements in subsection 3.
13 b. A registry identification card of a principal officer,
14 board member, agent, or employee shall expire ten days after
15 notification by a nonprofit dispensary that such person ceases
16 to work at the nonprofit dispensary.
17 6. A nonprofit dispensary is subject to reasonable
18 inspection by the department. The department shall give
19 reasonable notice of an inspection.
20 7. a. A nonprofit dispensary shall be operated on a
21 not-for-profit basis for the mutual benefit of its members
22 and patrons. The bylaws of a nonprofit dispensary and its
23 contracts with patrons shall contain such provisions relative
24 to the disposition of revenues and receipts as may be necessary
25 and appropriate to establish and maintain its not-for-profit
26 status. However, a nonprofit dispensary need not be recognized
27 as tax-exempt by the Internal Revenue Service and is not
28 required to incorporate pursuant to chapter 504.
29 b. A nonprofit dispensary shall notify the department within
30 ten days of when a principal officer, board member, agent, or
31 employee ceases to work at the nonprofit dispensary.
32 c. A nonprofit dispensary shall notify the department in
33 writing of the name, address, and date of birth of any new
34 principal officer, board member, agent, or employee and shall
35 submit a fee in an amount established by the department for
a new registry identification card before the new principal officer, board member, agent, or employee begins working at the nonprofit dispensary.

d. A nonprofit dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

e. The operating documents of a nonprofit dispensary shall include procedures for the oversight of the nonprofit dispensary and procedures to ensure accurate recordkeeping.

f. A nonprofit dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' other primary caregivers.

g. All principal officers and board members of a nonprofit dispensary shall be residents of the state of Iowa.

h. All cultivation of marijuana shall take place in an enclosed, locked facility.

i. A nonprofit dispensary shall not be located within five hundred feet of the property line of a public or private school.

8. A nonprofit dispensary or a principal officer, board member, agent, or employee of a nonprofit dispensary shall not dispense more than two and one-half ounces of usable marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a fifteen-day period.

9. a. A nonprofit dispensary shall not be subject to prosecution, search, seizure, or penalty, or be denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business, occupational, or licensing board or entity, solely for acting in accordance with this chapter to provide usable marijuana or to otherwise assist registered qualifying patients connected with the nonprofit dispensary with the medical use of marijuana.
A principal officer, board member, agent, or employee of a registered nonprofit dispensary shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, solely for acting in accordance with this chapter and department rules to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered primary caregivers on behalf of registered qualifying patients, or to other nonprofit dispensaries.

10. a. A nonprofit dispensary shall not possess more than six live marijuana plants for each registered qualifying patient who has designated the nonprofit dispensary as a primary caregiver and has designated that the nonprofit dispensary will be permitted to cultivate marijuana for the registered qualifying patient's medical use.

b. A principal officer, board member, employee, or agent of a nonprofit dispensary shall not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient who has designated the nonprofit dispensary as a primary caregiver.

c. The department shall immediately revoke the registry identification card of a principal officer, board member, employee, or agent of a nonprofit dispensary who is found to be in violation of paragraph "b", and such a person shall be disqualified from serving as a principal officer, board member, agent, or employee of a nonprofit dispensary.

d. Except as otherwise provided, a person who has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted shall not be eligible to be a principal officer, board member, agent, or employee of a nonprofit dispensary.

(1) A person who is a principal officer, board member,
agent, or employee of a nonprofit dispensary in violation of this paragraph "d" is subject to a civil penalty of up to one thousand dollars.

(2) A person who is a principal officer, board member, agent, or employee of a nonprofit dispensary in violation of this paragraph "d" and who, at the time of the violation, has been previously found to have been in violation of this paragraph "d" commits a class "D" felony.

e. A nonprofit dispensary shall not acquire usable marijuana or mature marijuana plants except through the cultivation of marijuana by that nonprofit dispensary.

Sec. 6. NEW SECTION. 124D.5 Departmental rules.

1. Not later than one hundred twenty days after the effective date of this Act, the department shall adopt rules to carry out the purposes of this chapter.

2. Not later than one hundred twenty days after the effective date of this Act, the department shall adopt rules that govern the manner in which the department shall consider petitions from the public to add medical conditions or treatments to the list of debilitating medical conditions set forth in section 124D.2, subsection 2. In considering such petitions, the department shall include public notice of, and an opportunity to comment in, a public hearing upon such petitions. The department shall, after hearing, approve or deny such petitions within one hundred eighty days of their submission. The approval or denial of such a petition constitutes final agency action, subject to judicial review.

3. Not later than one hundred twenty days after the effective date of this Act, the department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards. The department's rules must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department may establish a sliding scale of application and renewal fees based upon
1 a qualifying patient’s income. The department may accept
donations from private sources to reduce application and
renewal fees.
2 Sec. 7. NEW SECTION. 124D.6 Registry identification cards
3 — application — fee — penalty.
4 1. The department shall issue a registry identification
card to a qualifying patient who submits an application
containing all of the following:
5 a. A written certification.
6 b. An application or renewal fee.
7 c. The name, address, and date of birth of the qualifying
patient except that if the applicant is homeless, no address
is required.
8 d. The name, address, and telephone number of the qualifying
patient’s physician.
9 e. The name, address, and date of birth of each primary
caregiver, if any, of the qualifying patient. A qualifying
patient may designate only one primary caregiver unless
the qualifying patient is under eighteen years of age and
requires a parent to serve as a primary caregiver or the
qualifying patient designates a nonprofit dispensary to
cultivate marijuana for the qualifying patient’s medical use
and the qualifying patient requests the assistance of a second
caregiver to assist with the qualifying patient’s medical use.
10 f. If the qualifying patient designates one or more primary
caregivers, a designation as to who will be allowed under state
law to cultivate marijuana plants for the qualifying patient’s
medical use. Only one person may be allowed to cultivate
marijuana plants for a qualifying patient.
11 2. The department shall not issue a registry identification
card to a qualifying patient who is under the age of eighteen
unless all of the following requirements are met:
12 a. The qualifying patient’s physician has explained the
potential risks and benefits of the medical use of marijuana
to the qualifying patient and to a parent, guardian, or legal
custodian of the qualifying patient.

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

(1) Allowing the qualifying patient’s medical use of marijuana.

(2) Serving as the qualifying patient’s primary caregiver.

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

3. The department shall verify the information contained in an application or renewal application submitted pursuant to this section, and shall approve or deny an application or renewal application within thirty days of receiving the application or renewal application. The department may deny an application or a renewal application only if the applicant fails to provide the information required pursuant to this section, or the department determines that the information provided was falsified. Rejection of an application or a renewal application is considered a final agency action subject to judicial review pursuant to chapter 17A.

4. The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient’s approved application or renewal application, up to a maximum of one primary caregiver per qualifying patient, provided the primary caregiver meets the requirements of section 124D.2, subsection 10.

5. The department shall issue a registry identification card to a qualifying patient and to the primary caregiver within five days of approving an application or a renewal application, which shall expire one year after the date of issuance. A registry identification card shall contain all of the following:

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

b. The name, address, and date of birth of the primary
caregiver, if any, of the qualifying patient.

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

d. A random identification number.

e. A photograph, if the department requires a photograph.

f. A clear designation indicating whether the cardholder shall be allowed under law to cultivate marijuana plants for the qualifying patient's medical use, to be determined based upon the qualifying patient's preference.

6. a. A registered qualifying patient shall notify the department of any change in the registered qualifying patient's name, address, or primary caregiver, preference regarding who may cultivate marijuana for the registered qualifying patient, or if the registered qualifying patient ceases to have a debilitating medical condition, within ten days of such change.

b. A registered qualifying patient who fails to notify the department of any of the changes in paragraph "a" is subject to a civil penalty of up to one hundred fifty dollars. If the registered qualifying patient's certifying physician notifies the department in writing that the registered qualifying patient no longer suffers from a debilitating medical condition, the registered qualifying patient's registry identification card shall become void upon notification by the department to the qualifying patient.

c. A registered primary caregiver shall notify the department of any change in the registered primary caregiver's name or address within ten days of such change. A registered primary caregiver who fails to notify the department of such change is subject to a civil penalty of up to one hundred fifty dollars.

d. When a registered qualifying patient or registered primary caregiver notifies the department of any changes listed in this subsection and submits a fee of ten dollars, the department shall issue the cardholder a new registry identification card within ten days of receiving the updated
information.

e. When a registered qualifying patient changes the
registered qualifying patient's registered primary caregiver,
the department shall notify the primary caregiver within
ten days. The registered primary caregiver's protections
as provided in this chapter shall expire ten days after
notification by the department.

f. If a cardholder loses the cardholder's registry
identification card, the cardholder shall notify the department
and submit a fee of ten dollars within ten days of losing the
card. Within five days after such notification, the department
shall issue a new registry identification card with a new
random identification number to the cardholder.

7. Possession of, or application for, a registry
identification card shall not constitute probable cause or
reasonable suspicion and shall not be used to support the
search of the person or property of the person possessing or
applying for the registry identification card. The possession
of or application for a registry identification card does not
prevent the issuance of a warrant if probable cause exists on
other grounds.

8. The following confidentiality rules shall apply:
   a. Applications and supporting information submitted by
      a qualifying patient, including information regarding the
      qualifying patient's primary caregiver and physician, are
      confidential.

   b. Applications and supporting information submitted by a
      primary caregiver operating in compliance with this chapter,
      including the physical address of a nonprofit dispensary, are
      confidential.

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

d. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

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

(2) Notwithstanding this paragraph "e", department employees may notify law enforcement about falsified or fraudulent information submitted to the department, if the employee who suspects that falsified or fraudulent information has been submitted confers with the employee’s supervisor and the employee and the employee’s supervisor agree that circumstances exist that warrant reporting.

9. A cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter shall have the cardholder’s registry identification card revoked and is subject to any other penalties for the sale of marijuana. The department shall revoke the registry identification card of any cardholder who violates this chapter and the cardholder is subject to any other penalties for the violation.

10. The department shall submit an annual report to the general assembly by January 15 of each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum, all of the following information:

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

b. The number of registered qualifying patients and registered primary caregivers in each county.
c. The nature of the debilitating medical conditions of the qualifying patients.

d. The number of registry identification cards revoked.

e. The number of physicians providing written certifications for qualifying patients.

f. The number of registered nonprofit dispensaries.

g. The number of principal officers, board members, employees, and agents of nonprofit dispensaries.

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

Sec. 8. NEW SECTION. 124D.7 Scope of chapter.

1. This chapter does not permit any person to do any of the following:

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

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

   (1) In a school bus.
   (2) On the grounds of any preschool or primary or secondary school.
   (3) In any correctional facility.

c. Smoke marijuana in any of the following:

   (1) Any form of public transportation.
   (2) Any public place.

d. Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana.

e. Use marijuana if that person does not have a debilitating medical condition.

2. Nothing in this chapter shall be construed to require any of the following:
a. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana.

b. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

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

Sec. 9. NEW SECTION. 124D.8 Affirmative defenses — dismissal.

1. Except as provided in section 124D.7, a qualifying patient and a qualifying patient’s primary caregiver, other than a nonprofit dispensary, may assert the medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for the patient’s medical use, and this defense shall be presumed valid where the evidence shows all of the following:

a. A physician has stated that, in the physician’s professional opinion, after having completed a full assessment of the patient’s medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

b. The qualifying patient and the qualifying patient’s primary caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana.
for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

c. The qualifying patient and the qualifying patient's primary caregiver were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana solely to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

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

3. If a qualifying patient or a patient's primary caregiver demonstrates the qualifying patient's medical purpose for using marijuana pursuant to this section, the qualifying patient and the patient's primary caregiver shall not be subject to any of the following for the qualifying patient's use of marijuana for medical purposes:

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

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

Sec. 10. NEW SECTION. 124D.9 Enforcement.

1. If the department fails to adopt rules to implement the requirements of this chapter within one hundred twenty days of the effective date of this Act, a qualifying patient may commence an action in district court to compel the department to perform the department's duties pursuant to this chapter.

2. If the department fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal application submitted pursuant to this chapter within forty-five days of its
submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification card application or renewal application is deemed a valid registry identification card.

3. If at any time after January 1, 2012, the department is not accepting applications pursuant to this chapter, including if it has not promulgated rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 124D.6, together with a written certification, shall be deemed a valid registry identification card.

Sec. 11. Section 453B.6, Code 2011, is amended by adding the following new unnumbered paragraph:

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

EXPLANATION

This bill establishes new Code chapter 124D, the medical marijuana Act, relating to the possession and use of marijuana for therapeutic purposes, provides for the creation of nonprofit dispensaries, and provides for civil and criminal penalties and fees.

The bill provides that a qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or civil penalty, or denied any right or privilege, for the qualifying patient’s medical use of marijuana pursuant to the provisions of the bill.

The bill defines a qualifying patient as a person who has been diagnosed by a physician with a debilitating medical condition defined as cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, nail patella,
a chronic or debilitating disease or medical condition or its treatment that produces intractable pain, a chronic or debilitating medical condition that produces one or more of the following: cachexia or wasting syndrome, severe nausea, certain seizures, or certain muscle spasms, or any other medical condition or its treatment approved by the department of public health (department). A primary caregiver is defined as a person, 21 or older, who has agreed to assist with a qualifying patient’s medical use of marijuana who has never been convicted of a felony drug offense. A primary caregiver also includes a nonprofit dispensary. A physician is defined as a physician or surgeon or osteopathic physician or surgeon licensed under Code chapter 148.

The bill provides for the creation of nonprofit dispensaries. The bill defines a nonprofit dispensary as a not-for-profit organization registered by the department that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and educational materials to qualifying patients and primary caregivers who possess a valid registry identification card. The bill provides specific guidelines for regulation of nonprofit dispensaries and principal officers, board members, employees, or agents of a nonprofit dispensary by the department. A person who has been convicted of a felony offense shall not be eligible to be a principal officer, board member, agent, or employee of a nonprofit dispensary, unless otherwise permitted by the department. A first violation of this provision is punishable by a civil penalty of up to $1,000. A subsequent violation is a class "D" felony.

The bill provides that the department shall adopt rules for implementing the bill including rules relating to the consideration of petitions from the public to add additional debilitating medical conditions to the list of debilitating medical conditions specified in the bill, rules relating to applications and renewal applications for registry.
identification cards issued to qualifying patients and primary caregivers, and rules relating to registration certificates for nonprofit dispensaries. The department shall establish fees which shall meet certain requirements.

The bill provides that the department shall issue a registry identification card to a qualifying patient who submits certain specified information to the department. The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless the qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to the qualifying patient's parent, guardian, or legal representative and such persons provide the appropriate consent. The department shall also issue a registry identification card to each primary caregiver named in a qualifying patient's approved application for a registry identification card, up to a maximum of one primary caregiver per qualifying patient. The bill places restrictions on the amount of marijuana that may be possessed by a qualifying patient or a primary caregiver and on the persons authorized to cultivate marijuana for a qualifying patient. The bill requires the department to submit an annual report to the general assembly by January 15 of each year concerning information related to registry identification cards.

The bill provides that a registered qualifying patient or a registered primary caregiver who loses their registration identification card or who makes changes to certain information relevant to their registration identification card shall notify the department. A registered qualifying patient or a registered primary caregiver who fails to notify the department of any changes in information relevant to the registration identification card is subject to a civil penalty of up to $150.

The bill provides that applications and supporting information submitted by a qualifying patient, primary
caregiver, physician, nonprofit dispensary, or board member, employee, or agent of a nonprofit dispensary, are confidential. The bill also provides that a person, including an employee or official of the department or another state or local agency, who disseminates information received in connection with an application for a registry identification card pursuant to the bill, is guilty of a serious misdemeanor and is subject to confinement in jail for up to 100 days and a fine of $1,000. The bill prohibits the possession and use of medical marijuana in certain places and during certain activities. The bill provides that any fraudulent representation to a law enforcement official relating to the use of medical marijuana is a simple misdemeanor, punishable by a fine of up to $500. The bill amends Code section 124.401, relating to prohibited acts involving controlled substances, to provide that it is lawful for a person to knowingly or intentionally possess marijuana if the possession is in accordance with the provisions of the bill. The bill also amends Code section 453B.6, relating to tax stamps for controlled substances, to specify that possession in accordance with the provisions of the bill is lawful possession and a tax stamp is not required.