

Senate File 2360 - Introduced

SENATE FILE 2360

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3222)

A BILL FOR

1 An Act creating the medical cannabidiol Act and providing

2 penalties and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code 2014, is
2 amended by adding the following new unnumbered paragraph after
3 unnumbered paragraph 2:

4 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
5 intentionally recommend, possess, use, dispense, deliver,
6 transport, or administer cannabidiol if the recommendation,
7 possession, use, dispensing, delivery, transporting, or
8 administering is in accordance with the provisions of chapter
9 124D. For purposes of this paragraph, "*cannabidiol*" means the
10 same as defined in section 124D.2.

11 Sec. 2. NEW SECTION. 124D.1 Short title.

12 This chapter shall be known and may be cited as the "*Medical*
13 *Cannabidiol Act*".

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

15 As used in this chapter:

16 1. "*Cannabidiol*" means a nonpsychoactive cannabinoid found
17 in the plant *Cannabis sativa* L. or *Cannabis indica* or any
18 other preparation thereof that is essentially free from plant
19 material, and has a tetrahydrocannabinol level of no more than
20 three percent.

21 2. "*Department*" means the department of public health.

22 3. "*Intractable epilepsy*" means an epileptic seizure
23 disorder for which standard medical treatment does not prevent
24 or significantly ameliorate recurring, uncontrolled seizures or
25 for which standard medical treatment results in harmful side
26 effects.

27 4. "*Neurologist*" means an allopathic or osteopathic
28 physician board-certified in neurology in good standing and
29 licensed under chapter 148 or an allopathic or osteopathic
30 physician board-certified in neurology in good standing and
31 licensed in any other state.

32 5. a. "*Primary caregiver*" means a person, at least
33 eighteen years of age, who has been designated by a patient's
34 neurologist or a person having custody of a patient, as being
35 necessary to take responsibility for managing the well-being

1 of the patient with respect to the medical use of cannabidiol
2 pursuant to the provisions of this chapter. A patient may have
3 one or more designated primary caregivers.

4 *b. "Primary caregiver"* includes but is not limited to the
5 following:

6 (1) An employee of a hospice program, if the employee meets
7 the definition of a primary caregiver under paragraph "a".

8 (2) An individual providing home and community-based
9 services, and including a home health agency, licensed,
10 certified, or otherwise authorized or permitted by the law of
11 this state or another state to administer health care in the
12 ordinary course of business or in the practice of a profession,
13 if the individual meets the definition of a primary caregiver
14 under paragraph "a".

15 **Sec. 4. NEW SECTION. 124D.3 Neurologist recommendation —**
16 **medical use of cannabidiol.**

17 A neurologist who has examined and treated a patient
18 suffering from intractable epilepsy may provide but has no
19 duty to provide a written recommendation for the patient's
20 medical use of cannabidiol to treat or alleviate symptoms of
21 intractable epilepsy if no other satisfactory alternative
22 treatment options exist for the patient and all of the
23 following conditions apply:

24 1. The patient is a permanent resident of this state.

25 2. The neurologist or another neurologist has treated the
26 patient for intractable epilepsy for at least six months.

27 3. The neurologist has tried alternative treatment options
28 that have not alleviated the patient's symptoms.

29 4. The neurologist determines the risks of recommending
30 the medical use of cannabidiol are reasonable in light of the
31 potential benefit for the patient.

32 5. The neurologist maintains a patient treatment plan.

33 **Sec. 5. NEW SECTION. 124D.4 Cannabidiol registration card.**

34 1. *Issuance to patient.* The department may approve the
35 issuance of a cannabidiol registration card by the department

- 1 of transportation to a patient who:
- 2 *a.* Is at least eighteen years of age.
 - 3 *b.* Is a permanent resident of this state.
 - 4 *c.* Provides the department with a written recommendation
5 signed by a neurologist that the patient may benefit from the
6 medical use of cannabidiol pursuant to section 124D.3.
 - 7 *d.* Submits an application to the department, on a form
8 created by the department, in consultation with the department
9 of transportation, that contains all of the following:
 - 10 (1) The patient's full name, Iowa residence address, date
11 of birth, and telephone number.
 - 12 (2) A copy of the patient's valid photo identification.
 - 13 (3) Full name, address, and telephone number of the
14 patient's neurologist.
 - 15 (4) Full name, residence address, date of birth, and
16 telephone number of each primary caregiver of the patient, if
17 any.
 - 18 (5) Any other information required by rule.
 - 19 2. *Patient card contents.* A cannabidiol registration
20 card issued to a patient by the department of transportation
21 pursuant to subsection 1 shall contain, at a minimum, all of
22 the following:
 - 23 *a.* The patient's full name, Iowa residence address, and date
24 of birth.
 - 25 *b.* The patient's photo.
 - 26 *c.* The date of issuance and expiration date of the
27 registration card.
 - 28 *d.* Any other information required by rule.
 - 29 3. *Issuance to primary caregiver.* For a patient in a
30 primary caregiver's care, the department may approve the
31 issuance of a cannabidiol registration card by the department
32 of transportation to the primary caregiver who:
 - 33 *a.* Is at least eighteen years of age.
 - 34 *b.* Provides the department with a written recommendation
35 signed by a neurologist that a patient in the primary

1 caregiver's care may benefit from the medical use of
2 cannabidiol pursuant to section 124D.3.

3 *c.* Submits an application to the department, on a form
4 created by the department, in consultation with the department
5 of transportation, that contains all of the following:

6 (1) The primary caregiver's full name, residence address,
7 date of birth, and telephone number.

8 (2) The patient's full name.

9 (3) A copy of the primary caregiver's valid photo
10 identification.

11 (4) Full name, address, and telephone number of the
12 patient's neurologist.

13 (5) Any other information required by rule.

14 4. *Primary caregiver card contents.* A cannabidiol
15 registration card issued by the department of transportation to
16 a primary caregiver pursuant to subsection 3 shall contain, at
17 a minimum, all of the following:

18 *a.* The primary caregiver's full name, residence address, and
19 date of birth.

20 *b.* The primary caregiver's photo.

21 *c.* The date of issuance and expiration date of the
22 registration card.

23 *d.* The full name of each patient in the primary caregiver's
24 care.

25 *e.* Any other information required by rule.

26 5. *Expiration date of card.* A cannabidiol registration card
27 issued pursuant to this section shall expire one year after the
28 date of issuance and may be renewed.

29 6. *Card issuance — department of transportation.*

30 The department may enter into a chapter 28E agreement with the
31 department of transportation to facilitate the issuance of a
32 cannabidiol registration card pursuant to subsections 1 and 3.

33 7. *Validity of card issued in another jurisdiction.* A
34 cannabidiol registration card, or its equivalent, that is
35 issued under the laws of another state, district, territory,

1 or possession of the United States that allows a patient to
2 possess or use cannabidiol for only intractable epilepsy in
3 the jurisdiction of issuance has the same force and effect
4 when held by the patient while in this state as a cannabidiol
5 registration card issued by the department of transportation
6 in this state.

7 Sec. 6. NEW SECTION. 124D.5 Department duties — rules.

8 1. a. The department shall maintain a confidential file
9 of the names of each patient to or for whom the department
10 issues a cannabidiol registration card and the name of each
11 primary caregiver to whom the department issues a cannabidiol
12 registration card under section 124D.4.

13 b. Individual names contained in the file shall be
14 confidential and shall not be subject to disclosure, except as
15 provided in subparagraph (1).

16 (1) Information in the confidential file maintained
17 pursuant to paragraph "a" may be released to the following
18 persons under the following circumstances:

19 (a) To authorized employees or agents of the department and
20 the department of transportation as necessary to perform the
21 duties of the department and the department of transportation
22 pursuant to this chapter.

23 (b) To authorized employees of state or local law
24 enforcement agencies, but only for the purpose of verifying
25 that a person is lawfully in possession of a cannabidiol
26 registration card issued pursuant to this chapter.

27 (2) Release of information pursuant to subparagraph
28 (1) shall be consistent with the federal Health Insurance
29 Portability and Accountability Act of 1996, Pub. L. No.
30 104-191.

31 2. a. The department, in consultation with the department
32 of transportation, shall adopt administrative rules under
33 section 17A.4, subsection 3, and section 17A.5, subsection 2,
34 paragraph "b", to implement the provisions of this chapter,
35 subject to the prior approval of the administrative rules

1 coordinator and the administrative rules review committee.
2 Such rules shall become effective July 1, 2014, unless the
3 effective date is delayed by the administrative rules review
4 committee and shall expire one hundred eighty days after the
5 effective date.

6 *b.* The rules adopted pursuant to this subsection shall
7 include but not be limited to rules to establish the manner in
8 which the department shall consider applications for new and
9 renewal cannabidiol registration cards.

10 **Sec. 7. NEW SECTION. 124D.6 Medical use of cannabidiol —**
11 **affirmative defense.**

12 1. *a.* A recommendation for the possession or use of
13 cannabidiol as authorized by this chapter shall be provided
14 exclusively by a neurologist for a patient who has been
15 diagnosed with intractable epilepsy.

16 *b.* Cannabidiol provided exclusively pursuant to the
17 recommendation of a neurologist shall be obtained from an
18 out-of-state source and shall only be recommended for oral or
19 transdermal administration.

20 *c.* A neurologist shall be the sole authorized recommender
21 as part of the treatment plan by the neurologist of a patient
22 diagnosed with intractable epilepsy. A neurologist shall
23 have the sole authority to recommend the use or amount of
24 cannabidiol, if any, in the treatment plan of a patient
25 diagnosed with intractable epilepsy.

26 2. A neurologist, including any authorized agent thereof,
27 shall not be subject to prosecution for the unlawful
28 recommendation, possession, or administration of marijuana
29 under the laws of this state for activities arising directly
30 out of or directly related to the recommendation or use of
31 cannabidiol in the treatment of a patient diagnosed with
32 intractable epilepsy.

33 3. *a.* In a prosecution for the unlawful possession of
34 marijuana under the laws of this state, including but not
35 limited to chapters 124 and 453B, it is an affirmative and

1 complete defense to the prosecution that the patient has
2 been diagnosed with intractable epilepsy, used or possessed
3 cannabidiol pursuant to a recommendation by a neurologist as
4 authorized under this chapter, and, for a patient eighteen
5 years of age or older, is in possession of a valid cannabidiol
6 registration card.

7 *b.* In a prosecution for the unlawful possession of
8 marijuana under the laws of this state, including but not
9 limited to chapters 124 and 453B, it is an affirmative and
10 complete defense to the prosecution that the person possessed
11 cannabidiol because the person is a primary caregiver of a
12 patient who has been diagnosed with intractable epilepsy and
13 is in possession of a valid cannabidiol registration card, and
14 where the primary caregiver's possession of the cannabidiol
15 is on behalf of the patient and for the patient's use only as
16 authorized under this chapter.

17 *c.* If a patient or primary caregiver is charged with
18 the commission of a crime and is not in possession of the
19 person's cannabidiol registration card, any charge or charges
20 filed against the person shall be dismissed by the court if
21 the person produces to the court at the person's trial a
22 cannabidiol registration card issued to that person and valid
23 at the time the person was charged.

24 4. An agency of this state or a political subdivision
25 thereof, including any law enforcement agency, shall not
26 remove or initiate proceedings to remove a patient under the
27 age of eighteen from the home of a parent based solely upon
28 the parent's or patient's possession or use of cannabidiol as
29 authorized under this chapter.

30 Sec. 8. NEW SECTION. 124D.7 Penalties.

31 A person who knowingly or intentionally possesses or uses
32 cannabidiol in violation of the requirements of this chapter is
33 subject to the penalties provided under chapters 124 and 453B.

34 Sec. 9. NEW SECTION. 124D.8 Repeal.

35 This chapter is repealed July 1, 2017.

1 options exist for the patient and if the patient is a permanent
2 resident of this state, the neurologist or another neurologist
3 has treated the patient for intractable epilepsy for at least
4 six months, the neurologist has tried alternative treatment
5 options that have not alleviated the patient's symptoms, the
6 neurologist determines the risks of recommending the medical
7 use of cannabidiol are reasonable in light of the potential
8 benefit for the patient, and the neurologist maintains a
9 patient treatment plan.

10 CANNABIDIOL REGISTRATION CARD. The bill provides that
11 the department of public health may approve the issuance
12 of a cannabidiol registration card by the department of
13 transportation to a patient who is at least 18 years of
14 age and is a permanent resident of this state, who provides
15 the department with a written recommendation signed by a
16 neurologist that the patient may benefit from the medical
17 use of cannabidiol pursuant to the bill, and who submits an
18 application to the department with certain information. The
19 department may also approve the issuance of a cannabidiol
20 registration card by the department of transportation to a
21 primary caregiver who is at least 18 years of age, provides
22 the department with a written recommendation signed by a
23 neurologist that a patient in the primary caregiver's care may
24 benefit from the medical use of cannabidiol pursuant to the
25 bill, and submits an application to the department with certain
26 information.

27 A cannabidiol registration card shall expire one year after
28 the date of issuance and may be renewed.

29 RECIPROCITY. The bill provides that a cannabidiol
30 registration card, or its equivalent, that is issued under
31 the laws of another state, district, territory, or possession
32 of the United States that allows a patient to possess or use
33 cannabidiol for only intractable epilepsy in the jurisdiction
34 of issuance has the same force and effect when held by the
35 patient while in this state as a cannabidiol registration card

1 issued by the department of transportation.

2 CONFIDENTIALITY. The bill requires the department to
3 maintain a confidential file of the names of each patient to
4 or for whom the department issues a cannabidiol registration
5 card and the name of each primary caregiver who is issued a
6 cannabidiol registration card. Individual names contained
7 in the file shall be confidential and shall not be subject
8 to disclosure, except that information in the confidential
9 file may be released to authorized employees or agents of the
10 department and the department of transportation as necessary
11 to perform the duties of the department or the department of
12 transportation pursuant to the bill, to authorized employees
13 of state or local law enforcement agencies for the purpose
14 of verifying that a person is lawfully in possession of a
15 cannabidiol registration card. Release of information must
16 also be consistent with federal Health Insurance Portability
17 and Accountability Act regulations.

18 DEPARTMENT RULES. The bill provides that the department,
19 in consultation with the department of transportation, shall
20 adopt emergency rules to implement the provisions of the bill,
21 subject to the prior approval of the administrative rules
22 coordinator and the administrative rules review committee, to
23 be effective July 1, 2014, unless otherwise provided, and shall
24 expire six months after the effective date. The rules adopted
25 shall include but not be limited to rules to establish the
26 manner in which the department shall consider applications for
27 new and renewal cannabidiol registration cards. This provision
28 takes effect upon enactment.

29 MEDICAL USE OF CANNABIDIOL — AFFIRMATIVE DEFENSE. The
30 bill provides that a recommendation for the possession or use
31 of cannabidiol as authorized by the bill shall be provided
32 exclusively by a neurologist for a patient who has been
33 diagnosed with intractable epilepsy. Cannabidiol provided
34 exclusively pursuant to a neurologist's recommendation
35 shall be obtained from an out-of-state source and shall only

1 be recommended for oral or transdermal administration. A
2 neurologist shall be the sole authorized recommender as
3 part of the treatment plan by the neurologist of a patient
4 diagnosed with intractable epilepsy. A neurologist has the
5 sole authority to recommend the use or amount of cannabidiol,
6 if any, in the patient's treatment plan.

7 The bill provides that a neurologist, including any
8 authorized agent thereof, shall not be subject to prosecution
9 for the unlawful recommendation, possession, or administration
10 of marijuana under the laws of this state for activities
11 arising directly out of or directly related to the
12 recommendation or use of cannabidiol in the treatment of a
13 patient diagnosed with intractable epilepsy.

14 In a prosecution for the unlawful possession of marijuana
15 under the laws of this state, it is an affirmative and complete
16 defense to the prosecution that the patient has been diagnosed
17 with intractable epilepsy, used or possessed cannabidiol
18 pursuant to a recommendation by a neurologist, and if the
19 patient is 18 years of age or older, is in possession of a valid
20 cannabidiol registration card.

21 In a prosecution for the unlawful possession of marijuana
22 under the laws of this state, it is an affirmative and
23 complete defense to the prosecution that the person possessed
24 cannabidiol because the person is the primary caregiver of
25 a patient who has been diagnosed with intractable epilepsy
26 and who has a recommendation for the possession and use
27 of cannabidiol as recommended by a neurologist and is in
28 possession of a valid cannabidiol registration card and where
29 the primary caregiver's possession of the cannabidiol is on
30 behalf of the patient and for the patient's use only.

31 An agency of this state or a political subdivision thereof,
32 including any law enforcement agency, shall not remove or
33 initiate proceedings to remove a patient from the home of a
34 parent based solely upon the parent's or patient's possession
35 or use of cannabidiol.

S.F. 2360

1 The bill amends Code section 124.401, relating to prohibited
2 acts involving controlled substances, to provide that it is
3 lawful for a person to knowingly or intentionally recommend,
4 possess, use, distribute, dispense, deliver, transport,
5 or administer marijuana if the recommendation, possession,
6 use, distribution, dispensing, delivery, transporting, or
7 administering is in accordance with the provisions of the bill.

8 The bill provides that a person who knowingly or
9 intentionally possesses or uses cannabidiol in violation of
10 the bill is subject to the penalties of Code chapters 124
11 (controlled substances Act) and 453B (excise tax on unlawful
12 dealing in certain substances).

13 The new Code chapter created by the bill is repealed July 1,
14 2017.