A BILL FOR

An Act relating to the compassionate use of medical cannabis Act, reclassifying marijuana, including tetrahydrocannabinols, from a schedule I controlled substance to a schedule II controlled substance, providing for civil and criminal penalties and fees, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. Section 124.204, subsection 4, paragraphs m and u, Code 2017, are amended by striking the paragraphs.

Sec. 2. Section 124.204, subsection 7, Code 2017, is amended by striking the subsection.

Sec. 3. Section 124.206, subsection 7, Code 2017, is amended to read as follows:

7. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or, for purposes of paragraphs “a” and “b”, which contains any of its salts, isomers, or salts of isomers whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term “isomer” includes the optical, positional, and geometric isomers):

   a. Marijuana when used for medicinal purposes pursuant to rules of the board.

   b. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus cannabis (cannabis plant) as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

   (1) 1 cis or trans tetrahydrocannabinol, and their optical isomers.

   (2) 6 cis or trans tetrahydrocannabinol, and their optical isomers.

   (3) 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

   c. Nabilone [another name for nabilone: (+)-...
Sec. 4. Section 124.401, subsection 5, unnumbered paragraph 3, Code 2017, is amended to read as follows: A person may knowingly or intentionally recommend, possess, use, dispense, deliver, transport, or administer cannabidiol medical cannabis if the recommendation, possession, use, dispensing, delivery, transporting, or administering is in accordance with the provisions of chapter 124D 124E. For purposes of this paragraph, “cannabidiol” “medical cannabis” means the same as defined in section 124D.2 124E.2.

Sec. 5. NEW SECTION. 124E.1 Short title. This chapter shall be known and may be cited as the “Compassionate Use of Medical Cannabis Act”.

Sec. 6. NEW SECTION. 124E.2 Definitions. As used in this chapter:
1. “Debilitating medical condition” means any of the following:
   a. Cancer, if the underlying condition or treatment produces one or more of the following:
      (1) Intractable pain.
      (2) Nausea or severe vomiting.
      (3) Cachexia or severe wasting.
   b. Multiple sclerosis.
   c. Epilepsy or seizure disorders.
   d. AIDS or HIV as defined in section 141A.1.
   e. Crohn’s disease or ulcerative colitis.
   f. Amyotrophic lateral sclerosis.
   g. Intractable pain.
   h. Glaucoma.
   i. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
      (1) Intractable pain.
      (2) Nausea or severe vomiting.
(3) Cachexia or severe wasting.

j. Any other chronic or debilitating disease or medical condition or its medical treatment approved by the department pursuant to rule.

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

3. "Disqualifying felony offense" means a violation under federal or state law of a felony offense, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. §802(6).

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. "Health care practitioner" means an individual licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery or an individual licensed to prescribe medicine in any other state who provides specialty care for an Iowa resident for one or more of the debilitating medical conditions provided in this chapter.

6. "Intractable pain" means a pain in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of but are not limited to any of the following:

a. When treating a nonterminally ill patient for intractable pain, evaluation by the attending physician and one or more physicians specializing in pain medicine or the treatment of the area, system, or organ of the body perceived as the source of the pain.

b. When treating a terminally ill patient, evaluation by the attending physician who does so in accordance with the level of care, skill, and treatment that would be recognized by a reasonably prudent physician under similar conditions and
“Medical cannabis” means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins.

“Medical cannabis manufacturer” means an entity licensed by the department to manufacture and to possess, cultivate, transport, or supply medical cannabis pursuant to the provisions of this chapter.

“Medical cannabis patient center” means an entity licensed under section 124E.8 that acquires medical cannabis from a medical cannabis manufacturer in this state for the purpose of dispensing medical cannabis in this state pursuant to this chapter.

“Primary caregiver” means a person, at least eighteen years of age, who has been designated by a patient’s health care practitioner or a person having custody of a patient, as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabis pursuant to the provisions of this chapter.

“Written certification” means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

Sec. 7. NEW SECTION. 124E.3 Health care practitioner certification — duties.

1. Prior to a patient’s submission of an application for a medical cannabis registration card pursuant to section 124E.4, a health care practitioner shall do all of the following:

a. Determine, in the health care practitioner’s medical judgment, whether the patient whom the health care practitioner has examined and treated suffers from a debilitating medical condition that qualifies for the use of medical cannabis under this chapter, and if so determined, provide the patient with a written certification of that diagnosis.
b. Provide explanatory information as provided by the department to the patient about the therapeutic use of medical cannabis.

c. Determine, on an annual basis, if the patient continues to suffer from a debilitating medical condition and, if so, issue the patient a new certification of that diagnosis.

d. Otherwise comply with all requirements established by the department pursuant to rule.

2. A health care practitioner may provide, but has no duty to provide, a written certification pursuant to this section.

Sec. 8. NEW SECTION. 124E.4 Medical cannabis registration card.

1. Issuance to patient. The department may approve the issuance of a medical cannabis registration card by the department of transportation to a patient who:

a. Is at least eighteen years of age.

b. Is a permanent resident of this state.

c. Submits a written certification to the department signed by the patient's health care practitioner that the patient is suffering from a debilitating medical condition.

d. Submits an application to the department, on a form created by the department, in consultation with the department of transportation, that contains all of the following:

(1) The patient's full name, Iowa residence address, date of birth, and telephone number.

(2) A copy of the patient's valid photograph identification.

(3) Full name, address, and telephone number of the patient's health care practitioner.

(4) Full name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.

(5) Any other information required by rule.

e. Submits a medical cannabis registration card fee of one hundred dollars to the department. If the patient attests to
receiving social security disability benefits, supplemental
security insurance payments, or being enrolled in the medical
assistance program, the fee shall be twenty-five dollars.

2. Patient card contents. A medical cannabis registration
card issued to a patient by the department of transportation
pursuant to subsection 1 shall contain, at a minimum, all of
the following:
   a. The patient’s full name, Iowa residence address, and date
   of birth.
   b. The patient’s photograph.
   c. The date of issuance and expiration of the registration
card.
   d. Any other information required by rule.

3. Issuance to primary caregiver. For a patient in a
primary caregiver’s care, the department may approve the
issuance of a medical cannabis registration card by the
department of transportation to the primary caregiver who:
   a. Is at least eighteen years of age.
   b. Submits a written certification to the department signed
by the patient’s health care practitioner that the patient in
the primary caregiver’s care is suffering from a debilitating
medical condition.
   c. Submits an application to the department, on a form
created by the department, in consultation with the department
of transportation, that contains all of the following:
   (1) The primary caregiver’s full name, residence address,
date of birth, and telephone number.
   (2) The patient’s full name.
   (3) A copy of the primary caregiver’s valid photograph
identification.
   (4) Full name, address, and telephone number of the
patient’s health care practitioner.
   (5) Any other information required by rule.
   d. Submits a medical cannabis registration card fee of
twenty-five dollars to the department.
4. Primary caregiver card contents. A medical cannabis registration card issued by the department of transportation to a primary caregiver pursuant to subsection 3 shall contain, at a minimum, all of the following:
   a. The primary caregiver's full name, residence address, and date of birth.
   b. The primary caregiver's photograph.
   c. The date of issuance and expiration of the registration card.
   d. The registration card number of each patient in the primary caregiver's care. If the patient in the primary caregiver's care is under the age of eighteen, the full name of the patient's parent or legal guardian.
   e. Any other information required by rule.
5. Expiration date of card. A medical cannabis registration card issued pursuant to this section shall expire one year after the date of issuance and may be renewed.
6. Card issuance — department of transportation. The department may enter into a chapter 28E agreement with the department of transportation to facilitate the issuance of medical cannabis registration cards pursuant to subsections 1 and 3.

Sec. 9. NEW SECTION. 124E.5 Medical advisory council — duties.
1. No later than August 15, 2017, the director of public health shall establish a medical advisory council consisting of nine practitioners representing the fields of neurology, pain management, gastroenterology, oncology, psychiatry, pediatrics, infectious disease, family medicine, and pharmacy. The practitioners shall be nationally board-certified in their area of specialty and knowledgeable about the use of medical cannabis.
2. A quorum of the advisory council shall consist of five members.
3. The duties of the advisory council shall include but not
be limited to the following:

a. Reviewing and recommending to the department for approval additional chronic or debilitating diseases or medical conditions or their treatments as debilitating medical conditions that qualify for the use of medical cannabis under this chapter.

b. Accepting and reviewing petitions to add chronic or debilitating diseases or medical conditions or their medical treatments to the list of debilitating medical conditions that qualify for the use of medical cannabis under this chapter.

c. Advising the department regarding the location and number of necessary medical cannabis patient centers throughout the state on a continuous basis, the form and quantity of allowable medical cannabis to be dispensed to a patient or primary caregiver, and the general oversight of medical cannabis manufacturers and medical cannabis patient centers in this state.

d. Convening at least twice per year to conduct public hearings and to review and recommend for approval petitions, which shall be maintained as confidential personal health information, to add chronic or debilitating diseases or medical conditions or their medical treatments to the list of debilitating medical conditions that qualify for the use of medical cannabis under this chapter.

Sec. 10. NEW SECTION. 124E.6 Medical cannabis manufacturer licensure.

1. a. The department shall license up to two medical cannabis manufacturers to manufacture medical cannabis within this state consistent with the provisions of this chapter by December 1, 2017. The department shall license new medical cannabis manufacturers or relicense the existing medical cannabis manufacturers by December 1 of each year.

b. Information submitted during the application process shall be confidential until the medical cannabis manufacturer is licensed by the department unless otherwise protected from
disclosure under state or federal law.

2. As a condition for licensure, a medical cannabis manufacturer must agree to begin supplying medical cannabis to medical cannabis patient centers in this state by July 1, 2018.

3. The department shall consider the following factors in determining whether to license a medical cannabis manufacturer:
   a. The technical expertise of the medical cannabis manufacturer regarding medical cannabis.
   b. The qualifications of the medical cannabis manufacturer’s employees.
   c. The long-term financial stability of the medical cannabis manufacturer.
   d. The ability to provide appropriate security measures on the premises of the medical cannabis manufacturer.
   e. Whether the medical cannabis manufacturer has demonstrated an ability to meet certain medical cannabis production needs for medical use regarding the range of recommended dosages for each debilitating medical condition, the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each of the debilitating medical conditions, and the form of the medical cannabis in the manner determined by the department pursuant to rule.
   f. The medical cannabis manufacturer’s projection of and ongoing assessment of fees on patients with debilitating medical conditions.

4. The department shall require each medical cannabis manufacturer to contract with the state hygienic laboratory at the university of Iowa in Iowa City to test the medical cannabis produced by the manufacturer as provided in section 124E.7. The department shall require that the laboratory report testing results to the manufacturer in a manner determined by the department pursuant to rule.

5. Each entity submitting an application for licensure as a medical cannabis manufacturer shall pay a nonrefundable
Sec. 11. NEW SECTION. 124E.7 Medical cannabis manufacturers.

1. A medical cannabis manufacturer shall contract with the state hygienic laboratory at the university of Iowa in Iowa City for purposes of testing the medical cannabis manufactured by the medical cannabis manufacturer as to content, contamination, and consistency. The cost of all laboratory testing shall be paid by the medical cannabis manufacturer.

2. The operating documents of a medical cannabis manufacturer shall include all of the following:

   a. Procedures for the oversight of the medical cannabis manufacturer and procedures to ensure accurate record keeping.
   
   b. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

3. A medical cannabis manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

4. A medical cannabis manufacturer shall not share office space with, refer patients to, or have any financial relationship with a health care practitioner.

5. A medical cannabis manufacturer shall not permit any person to consume medical cannabis on the property of the medical cannabis manufacturer.

6. A medical cannabis manufacturer is subject to reasonable inspection by the department.

7. A medical cannabis manufacturer shall not employ a person who is under eighteen years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabis manufacturer shall be subject to a background investigation conducted by the division of criminal
investigation of the department of public safety and a national criminal history background check.

8. A medical cannabis manufacturer shall not operate in any location, whether for manufacturing, cultivating, harvesting, packaging, or processing, within one thousand feet of a public or private school existing before the date of the medical cannabis manufacturer's licensure by the department.

9. A medical cannabis manufacturer shall comply with reasonable restrictions set by the department relating to signage, marketing, display, and advertising of medical cannabis.

10. a. A medical cannabis manufacturer shall provide a reliable and ongoing supply of medical cannabis to medical cannabis patient centers pursuant to this chapter.

   b. All manufacturing, cultivating, harvesting, packaging, and processing of medical cannabis shall take place in an enclosed, locked facility at a physical address provided to the department during the licensure process.

   c. A medical cannabis manufacturer shall not manufacture edible medical cannabis products utilizing food coloring.

   d. A medical cannabis manufacturer shall manufacture a reliable and ongoing supply of medical cannabis to treat every debilitating medical condition listed in this chapter.

Sec. 12. NEW SECTION. 124E.8 Medical cannabis patient center licensure.

1. a. The department shall license by April 1, 2018, up to four medical cannabis patient centers to dispense medical cannabis within this state consistent with the provisions of this chapter. The department shall license new medical cannabis patient centers or relicense the existing medical cannabis patient centers by December 1 of each year.

   b. Information submitted during the application process shall be confidential until the medical cannabis patient center is licensed by the department unless otherwise protected from disclosure under state or federal law.
2. As a condition for licensure, a medical cannabis patient center must agree to begin supplying medical cannabis to patients by July 15, 2018.

3. The department shall consider the following factors in determining whether to license a medical cannabis patient center:
   a. The technical expertise of the medical cannabis patient center regarding medical cannabis.
   b. The qualifications of the medical cannabis patient center’s employees.
   c. The long-term financial stability of the medical cannabis patient center.
   d. The ability to provide appropriate security measures on the premises of the medical cannabis patient center.
   e. The medical cannabis patient center’s projection and ongoing assessment of fees for the purchase of medical cannabis on patients with debilitating medical conditions.

4. Each entity submitting an application for licensure as a medical cannabis patient center shall pay a nonrefundable application fee of five thousand dollars to the department.

Sec. 13. NEW SECTION. 124E.9 Medical cannabis patient centers.

1. a. The medical cannabis patient centers shall be located based on geographical need throughout the state to improve patient access.
   b. A medical cannabis patient center may dispense medical cannabis pursuant to the provisions of this chapter but shall not dispense any medical cannabis in a form or quantity other than the form or quantity allowed by the department pursuant to rule.

2. The operating documents of a medical cannabis patient center shall include all of the following:
   a. Procedures for the oversight of the medical cannabis patient center and procedures to ensure accurate record keeping.
b. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

3. A medical cannabis patient center shall implement security requirements, including requirements for protection by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

4. A medical cannabis patient center shall not share office space with, refer patients to, or have any financial relationship with a health care practitioner.

5. A medical cannabis patient center shall not permit any person to consume medical cannabis on the property of the medical cannabis patient center.

6. A medical cannabis patient center is subject to reasonable inspection by the department.

7. A medical cannabis patient center shall not employ a person who is under eighteen years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabis patient center shall be subject to a background investigation conducted by the division of criminal investigation of the department of public safety and a national criminal history background check.

8. A medical cannabis patient center shall not operate in any location within one thousand feet of a public or private school existing before the date of the medical cannabis patient center's licensure by the department.

9. A medical cannabis patient center shall comply with reasonable restrictions set by the department relating to signage, marketing, display, and advertising of medical cannabis.

10. Prior to dispensing of any medical cannabis, a medical cannabis patient center shall do all of the following:

   a. Verify that the medical cannabis patient center has received a valid medical cannabis registration card from a
patient or a patient’s primary caregiver, if applicable.

b. Assign a tracking number to any medical cannabis
   dispensed from the medical cannabis patient center.

c. (1) Properly package medical cannabis in compliance with
   federal law regarding child resistant packaging and exemptions
   for packaging for elderly patients, and label medical cannabis
   with a list of all active ingredients and individually
   identifying information, including all of the following:
   (a) The name and date of birth of the patient and the
       patient’s primary caregiver, if appropriate.
   (b) The medical cannabis registration card numbers of the
       patient and the patient’s primary caregiver, if applicable.
   (c) The chemical composition of the medical cannabis.
   (2) Proper packaging of medical cannabis shall include but
       not be limited to all of the following:
       (a) Warning labels regarding the use of medical cannabis by
           a woman during pregnancy and while breastfeeding.
       (b) Clearly labeled packaging indicating that an edible
           medical cannabis product contains medical cannabis and which
           packaging shall not imitate candy products or in any way make
           the product marketable to children.

11. A medical cannabis patient center shall employ a
    pharmacist licensed pursuant to chapter 155A.

12. A medical cannabis patient center shall keep a
    reliable and ongoing supply of medical cannabis to treat every
    debilitating medical condition listed in this chapter.

Sec. 14. NEW SECTION. 124E.10 Department duties — rules.

1. a. The department shall maintain a confidential file of
    the names of each patient to or for whom the department issues
    a medical cannabis registration card, the name of each primary
    caregiver to whom the department issues a medical cannabis
    registration card under section 124E.4, and the names of each
    health care practitioner who provides a written certification
    for medical cannabis pursuant to this chapter.
    b. Individual names contained in the file shall be
1 confidential and shall not be subject to disclosure, except as
2 provided in subparagraph (1).
3     (1) Information in the confidential file maintained
4 pursuant to paragraph "a" may be released on an individual basis
5 to the following persons under the following circumstances:
6     (a) To authorized employees or agents of the department and
7 the department of transportation as necessary to perform the
8 duties of the department and the department of transportation
9 pursuant to this chapter.
10     (b) To authorized employees of state or local law
11 enforcement agencies, but only for the purpose of verifying
12 that a person is lawfully in possession of a medical cannabis
13 registration card issued pursuant to this chapter.
14     (c) To authorized employees of a medical cannabis patient
15 center, but only for the purpose of verifying that a person is
16 lawfully in possession of a medical cannabis registration card
17 issued pursuant to this chapter.
18     (2) Release of information pursuant to subparagraph
19 (1) shall be consistent with the federal Health Insurance
21 104-191.
22 2. The department shall adopt rules pursuant to chapter
23 17A to administer this chapter which shall include but not be
24 limited to rules to do all of the following:
25     a. Govern the manner in which the department shall consider
26 applications for new and renewal medical cannabis registration
27 cards.
28     b. Identify criteria and set forth procedures for
29 including additional chronic or debilitating diseases or
30 medical conditions or their medical treatments on the list of
31 debilitating medical conditions that qualify for the use of
32 medical cannabis. Procedures shall include a petition process
33 and shall allow for public comment and public hearings before
34 the medical advisory council.
35     c. Set forth additional chronic or debilitating diseases
or medical conditions or associated medical treatments for
inclusion on the list of debilitating medical conditions that
qualify for the use of medical cannabis as recommended by the
medical advisory council.

d. Establish the form and quantity of medical cannabis
allowed to be dispensed to a patient or primary caregiver
pursuant to this chapter. The form and quantity of medical
cannabis shall be appropriate to serve the medical needs of
patients with debilitating medical conditions.

e. Establish requirements for the licensure of medical
cannabis manufacturers and medical cannabis patient centers and
set forth procedures for medical cannabis manufacturers and
medical cannabis patient centers to obtain licenses.

f. Develop a dispensing system for medical cannabis within
this state that provides for all of the following:

(1) Medical cannabis patient centers within this state
housed on secured grounds and operated by licensed medical
cannabis patient centers.

(2) The dispensing of medical cannabis to patients and
their primary caregivers to occur at locations designated by
the department.

g. Specify and implement procedures that address public
safety including security procedures and product quality
including measures to ensure contaminant-free cultivation of
medical cannabis, safety, and labeling.

h. Establish and implement a real-time, statewide
medical cannabis registry management sale tracking system
that is available to medical cannabis patient centers on a
twenty-four-hour-day, seven-day-a-week basis for the purpose of
verifying that a person is lawfully in possession of a medical
cannabis registration card issued pursuant to this chapter
and for tracking the date of the sale and quantity of medical
cannabis purchased by a patient or a primary caregiver.

i. Establish and implement a medical cannabis inventory
and delivery tracking system to track medical cannabis
from production by a medical cannabis manufacturer through
dispensing at a medical cannabis patient center.

Sec. 15. NEW SECTION. 124E.11 Reciprocity.

A valid medical cannabis registration card, or its
equivalent, issued under the laws of another state that allows
an out-of-state patient to possess or use medical cannabis in
the jurisdiction of issuance shall have the same force and
effect as a valid medical cannabis registration card issued
pursuant to this chapter, except that an out-of-state patient
in this state shall not obtain medical cannabis from a medical
cannabis patient center in this state and an out-of-state
patient shall not smoke medical cannabis.

Sec. 16. NEW SECTION. 124E.12 Use of medical cannabis —
smoking prohibited.

A patient shall not consume medical cannabis possessed or
used as authorized by this chapter by smoking medical cannabis.

Sec. 17. NEW SECTION. 124E.13 Use of medical cannabis —
affirmative defenses.

1. A health care practitioner, including any authorized
agent or employee thereof, shall not be subject to
prosecution for the unlawful certification, possession, or
administration of marijuana under the laws of this state for
activities arising directly out of or directly related to the
certification or use of medical cannabis in the treatment of
a patient diagnosed with a debilitating medical condition as
authorized by this chapter.

2. A medical cannabis manufacturer, including any
authorized agent or employee thereof, shall not be subject
to prosecution for manufacturing, possessing, cultivating,
harvesting, packaging, processing, transporting, or supplying
medical cannabis pursuant to this chapter.

3. A medical cannabis patient center, including any
authorized agent or employee thereof, shall not be subject to
prosecution for transporting, supplying, or dispensing medical
cannabis pursuant to this chapter.
a. In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the patient has been diagnosed with a debilitating medical condition, used or possessed medical cannabis pursuant to a certification by a health care practitioner as authorized under this chapter, and, for a patient eighteen years of age or older, is in possession of a valid medical cannabis registration card.

b. In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the person possessed medical cannabis because the person is a primary caregiver of a patient who has been diagnosed with a debilitating medical condition and is in possession of a valid medical cannabis registration card, and where the primary caregiver’s possession of the medical cannabis is on behalf of the patient and for the patient’s use only as authorized under this chapter.

c. If a patient or primary caregiver is charged with the commission of a crime and is not in possession of the person’s medical cannabis registration card, any charge or charges filed against the person shall be dismissed by the court if the person produces to the court prior to or at the person’s trial a medical cannabis registration card issued to that person and valid at the time the person was charged.

4. An agency of this state or a political subdivision thereof, including any law enforcement agency, shall not remove or initiate proceedings to remove a patient under the age of eighteen from the home of a parent based solely upon the parent’s or patient’s possession or use of medical cannabis as authorized under this chapter.

Sec. 18. NEW SECTION. 124E.14 Fees.

Medical cannabis registration card fees and medical cannabis manufacturer and medical cannabis patient center application

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and annual fees collected by the department pursuant to this chapter shall be retained by the department, shall be considered repayment receipts as defined in section 8.2, and shall be used for the purpose of regulating medical cannabis manufacturers and medical cannabis patient centers and for other expenses necessary for the administration of this chapter. Notwithstanding section 8.33, moneys retained by the department that remain unencumbered or unobligated at the end of the fiscal year shall not revert to the general fund of the state.

Sec. 19. NEW SECTION. 124E.15 Penalties.

1. A person who knowingly or intentionally possesses or uses medical cannabis in violation of the requirements of this chapter is subject to the penalties provided under chapters 124 and 453B.

2. A medical cannabis manufacturer or a medical cannabis patient center shall be assessed a civil penalty of up to one thousand dollars per violation for any violation of this chapter in addition to any other applicable penalties.

Sec. 20. REPEAL. Chapter 124D, Code 2017, is repealed.

Sec. 21. EMERGENCY RULES. The department may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 22. TRANSITION PROVISIONS. A medical cannabis registration card issued under chapter 124D prior to the effective date of this Act, remains effective and continues in effect as issued for the twelve-month period following its issuance. This Act does not preclude the permit holder from seeking to renew the permit under this Act prior to the expiration of the twelve-month period.
Sec. 23. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill creates the compassionate use of medical cannabis Act, reclassifies marijuana, including tetrahydrocannabinols, from a schedule I controlled substance to a schedule II controlled substance, and provides for civil and criminal penalties and fees.

OVERVIEW. The bill allows a patient with a debilitating medical condition who receives a written certification from the patient's health care practitioner that the patient has a debilitating medical condition and who submits the written certification along with an application to the department of public health (department) for a medical cannabis registration card to allow for the lawful use of medical cannabis to treat the patient's debilitating medical condition. A patient who is issued a medical cannabis registration card will be able to receive medical cannabis directly from a medical cannabis patient center operated and licensed in this state.

RECLASSIFICATION. The bill reclassifies marijuana, including tetrahydrocannabinols as a schedule II controlled substance instead of a schedule I controlled substance and strikes references to the authority of the board of pharmacy to adopt rules for the use of marijuana or tetrahydrocannabinols for medicinal purposes.

A schedule I controlled substance is a highly addictive substance that has no accepted medical use in the United States and a schedule II controlled substance is a highly addictive substance that has an accepted medical use in the United States. The reclassification of marijuana from a schedule I controlled substance to a schedule II controlled substance would allow a physician to issue a prescription for marijuana under state law. However, federal regulations may prohibit...
such prescriptions.

The penalties remain unchanged for violations involving marijuana under the bill. The penalties under Code section 124.401 range from a class “B” felony punishable by up to 50 years of confinement to a serious misdemeanor punishable by up to six months of confinement depending on the amount of marijuana involved in the offense.

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 recommend, possess, use, dispense, deliver, transport, or administer medical cannabis if the recommendation, possession, use, dispensing, delivery, transporting, or administering is in accordance with the provisions of the bill.

DEFINITIONS. The bill provides the following definitions:

“Debilitating medical condition” means cancer, multiple sclerosis, epilepsy, AIDS or HIV, Crohn’s disease or ulcerative colitis, amyotrophic lateral sclerosis, intractable pain, glaucoma, any terminal illness with a probable life expectancy of under one year, and any other chronic or debilitating disease or medical condition or its medical treatment approved by the department by rule.

“Health care practitioner” means an individual licensed under Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery or an individual licensed to prescribe medicine in any other state who provides specialty care to an Iowa resident for one or more debilitating medical conditions.

“Medical cannabis” means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins.

“Medical cannabis manufacturer” means an entity licensed by the department to manufacture and to possess, cultivate, transport, or supply, medical cannabis pursuant to the bill.

“Medical cannabis patient center” means an entity licensed
under the bill that acquires medical cannabis from a medical
cannabis manufacturer in this state for the purpose of
dispensing medical cannabis in this state pursuant to the bill.
"Primary caregiver" means a person, at least 18 years of age,
who has been designated by a patient's health care practitioner
or a person having custody of a patient, as a necessary
caretaker taking responsibility for managing the well-being
of the patient with respect to the use of medical cannabis
pursuant to the bill.
"Written certification" means a document signed by a health
care practitioner, with whom the patient has established a
patient-provider relationship, which states that the patient
has a debilitating medical condition and which identifies that
condition, and provides any other relevant information.
HEALTH CARE PRACTITIONER CERTIFICATION. The bill provides
that prior to a patient's submission of an application
for a medical cannabis registration card, if a health care
practitioner determines that the patient whom the health
care practitioner has examined and treated suffers from a
debilitating medical condition, the health care practitioner
may provide the patient with a written certification of that
diagnosis. The health care practitioner must also provide
explanatory information to the patient about the therapeutic
use of medical cannabis, and if the patient continues to
suffer from a debilitating medical condition, the health care
practitioner may issue the patient a new certification of that
diagnosis on an annual basis.
MEDICAL CANNABIS REGISTRATION CARD — PATIENT AND PRIMARY
CAREGIVER. The department may approve the issuance of a
medical cannabis registration card to a patient who is at least
18 years of age and is a permanent resident of this state, who
submits a written certification by the patient's health care
practitioner to the department, and who submits an application
to the department with certain information along with a medical
registration card fee. The department may also approve the
issuance of a medical cannabis registration card to a primary caregiver who is at least 18 years of age, who submits a written certification by the patient's health care practitioner to the department on behalf of the patient, and who submits an application to the department with certain information along with a medical cannabis registration card fee. A medical cannabis registration card expires one year after the date of issuance and may be renewed.

MEDICAL ADVISORY COUNCIL. The director of public health is directed to establish a medical advisory council, no later than August 15, 2017, to consist of nine practitioners representing the fields of neurology, pain management, gastroenterology, oncology, psychiatry, pediatrics, infectious disease, family medicine, and pharmacy. The duties of the council include but are not limited to reviewing and recommending to the department for approval additional chronic or debilitating diseases or medical conditions or their treatments as debilitating medical conditions that qualify for the use of medical cannabis under the bill.

MEDICAL CANNABIS MANUFACTURERS AND MEDICAL CANNABIS PATIENT CENTERS — LICENSURE. The bill requires the department to license up to two medical cannabis manufacturers for the manufacture of medical cannabis within this state by December 1, 2017, and to license up to four medical cannabis patient centers by April 1, 2018. Information submitted during the application process is confidential until the medical cannabis manufacturer or the medical cannabis patient center is licensed by the department unless otherwise protected from disclosure under state or federal law. As a condition for licensure, a medical cannabis manufacturer must agree to begin supplying medical cannabis to medical cannabis patient centers by July 1, 2018, and a medical cannabis patient center must agree to begin supplying medical cannabis to patients by July 15, 2018. The department is directed to consider several factors in determining whether to license a medical cannabis manufacturer.
and a medical cannabis patient center including technical expertise, employee qualifications, financial stability, security measures, and production needs and capacity. Each medical cannabis manufacturer is required to contract with the state hygienic laboratory at the university of Iowa to test the medical cannabis produced by the manufacturer and to report testing results to the medical cannabis manufacturer. Each entity submitting an application for licensure as a medical cannabis manufacturer shall pay a nonrefundable application fee of $7,500 to the department and each entity submitting an application for licensure as a medical cannabis patient center shall pay a nonrefundable application fee of $5,000 to the department.

MEDICAL CANNABIS MANUFACTURERS AND MEDICAL CANNABIS PATIENT CENTERS — ADDITIONAL PROVISIONS. The operating documents of a medical cannabis manufacturer and a medical cannabis patient center shall include procedures for oversight and recordkeeping activities of the medical cannabis manufacturer and the medical cannabis patient center and certain security measures undertaken by the medical cannabis manufacturer and the medical cannabis patient center. A medical cannabis manufacturer and a medical cannabis patient center are prohibited from sharing office space with, referring patients to, or having a financial relationship with a health care practitioner, permitting any person to consume medical cannabis on the property of the medical cannabis manufacturer or the medical cannabis patient center, employing a person who is under 18 years of age or who has been convicted of a disqualifying felony offense, and from operating in any location within 1,000 feet of a public or private school existing before the date of the licensure of the medical cannabis manufacturer or the medical cannabis patient center. In addition, a medical cannabis manufacturer and a medical cannabis patient center are subject to reasonable inspection and certain reasonable restrictions. A medical cannabis manufacturer is required to provide a...
reliable and ongoing supply of medical cannabis to medical cannabis patient centers and shall not manufacture edible medical cannabis products utilizing food coloring. All manufacturing, cultivating, harvesting, packaging, and processing of medical cannabis is required to take place in an enclosed, locked facility.

Prior to dispensing any medical cannabis, a medical cannabis patient center is required to verify that the medical cannabis patient center has received a valid medical cannabis registration card from a patient or a patient's primary caregiver, if applicable, assign a tracking number to any medical cannabis dispensed from the medical cannabis patient center, and properly package and label medical cannabis in compliance with the provisions of the bill and certain federal laws. A medical cannabis patient center is required to employ an Iowa licensed pharmacist.

DEPARTMENT DUTIES — CONFIDENTIALITY. The department is required to maintain a confidential file of the names of each patient and primary caregiver issued a medical cannabis registration card, and the names of each health care practitioner who provides a written certification for medical cannabis under the bill. Individual names contained in the file shall be confidential and shall not be subject to disclosure, except that information in the confidential file may be released on an individual basis to authorized employees or agents of the department, the department of transportation, and a medical cannabis patient center as necessary to perform their duties and to authorized employees of state or local law enforcement agencies for the purpose of verifying that a person is lawfully in possession of a medical cannabis registration card. Release of information must also be consistent with federal Health Insurance Portability and Accountability Act regulations.

ADDITIONAL DEPARTMENT DUTIES — RULES. The bill requires the department to adopt rules relating to the manner in which
the department shall consider applications for new and renewal medical cannabis registration cards, identify criteria and set forth procedures for including additional chronic or debilitating diseases or medical conditions or their medical treatments on the list of debilitating medical conditions, establish the form and quantity of medical cannabis allowed to be dispensed to a patient or primary caregiver in the form and quantity appropriate to serve the medical needs of the patient with the debilitating medical condition, establish requirements for the licensure of medical cannabis manufacturers and medical cannabis patient centers, develop a dispensing system for medical cannabis within this state that follows certain requirements, establish and implement a real-time, statewide medical cannabis registry management sale tracking system and a medical cannabis inventory and delivery tracking system, and specify and implement procedures that address public safety including security procedures and product quality, safety, and labeling.

RECIPROCITY. The bill provides that a valid medical cannabis registration card, or its equivalent, issued under the laws of another state that allows an out-of-state patient to possess or use medical cannabis in the jurisdiction of issuance shall have the same force and effect as a valid medical cannabis card issued under the bill, except that an out-of-state patient in this state shall not obtain medical cannabis from a medical cannabis patient center and an out-of-state patient shall not smoke medical cannabis in this state.

USE OF MEDICAL CANNABIS — SMOKING PROHIBITED. The bill provides that a patient shall not consume the medical cannabis by smoking the medical cannabis.

USE OF MEDICAL CANNABIS — AFFIRMATIVE DEFENSES. The bill provides prosecution immunity for a health care practitioner, a medical cannabis manufacturer, and a medical cannabis patient center, including any authorized agents or employees of the
health care practitioner, medical cannabis manufacturer, and
medical cannabis patient center, for activities undertaken by
the health care practitioner, medical cannabis manufacturer,
and medical cannabis patient center pursuant to the provisions
of the bill.

The bill provides that in a prosecution for the unlawful
possession of marijuana under the laws of this state,
including but not limited to Code chapters 124 (controlled
substances) and 453B (excise tax on unlawful dealing in
certain substances), it is an affirmative and complete
defense to the prosecution that the patient has been diagnosed
with a debilitating medical condition, used or possessed
medical cannabis pursuant to a certification by a health
care practitioner, and, for a patient age 18 or older, is
in possession of a valid medical cannabis registration
card. The bill provides a similar affirmative defense for a
primary caretaker of a patient who has been diagnosed with a
debilitating medical condition who is in possession of a valid
medical cannabis registration card.

The bill provides that an agency of this state or a political
subdivision thereof, including any law enforcement agency,
shall not remove or initiate proceedings to remove a patient
under the age of 18 from the home of a parent based solely upon
the parent's or patient's possession or use of medical cannabis
as authorized under the bill.

FEES. Medical cannabis registration card fees and medical
cannabis manufacturer and medical cannabis application and
annual fees shall be retained by the department and used for
the purposes of regulating medical cannabis manufacturers and
medical cannabis patient centers and for other administrative
purposes.

PENALTIES. The bill provides that a person who knowingly or
intentionally possesses or uses medical cannabis in violation
of the requirements of the bill is subject to the penalties
provided under Code chapters 124 and 453B. In addition, a
1 medical cannabis manufacturer or a medical cannabis patient
center shall be assessed a civil penalty of up to $1,000 per
violation for any violation of the bill in addition to any
other applicable penalties.

REPEAL. The bill repeals Code chapter 124D, the medical
cannabidiol Act.

EMERGENCY RULES. The bill provides that the department
may adopt emergency rules and the rules shall be effective
immediately upon filing unless a later date is specified in the
rules.

EFFECTIVE DATE. The bill takes effect upon enactment.

TRANSITION PROVISIONS. The bill provides that a medical
cannabis registration card issued under Code chapter 124D
(medical cannabidiol Act) prior to the effective date of the
bill, shall remain effective and continues in effect as issued
for the 12-month period following its issuance.