



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

July 27, 2023

RECEIVED
JUL 27 2023
S.D. SEC. OF STATE

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Draft Attorney General's Statement (Proposed Initiated Measure Repealing SDCL Ch. 34-20G, Medical Cannabis)

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

By copy of this letter, I am providing a copy of the *draft* Statement to the sponsor.

Very truly yours,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 27th day of
July 2023

SECRETARY OF STATE

Cc/encl: Travis Ismay
Reed Holwegner – Legislative Research Council

RECEIVED
MAY 1 1961
10 AM 02 20 11

Filed this _____ day

Walter S. Jones

SECRETARY OF STATE

RECEIVED
JUL 27 2023
S.D. SEC. OF STATE

INITIATED MEASURE

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure Repealing South Dakota's Medical Marijuana Program.

Explanation:

In the 2020 General Election, the voters approved the creation of the South Dakota medical marijuana program. By approving that program, the voters legalized the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products, under certain conditions, for medical purposes.

This initiated measure repeals South Dakota's medical marijuana program. If approved, that repeal makes all possession, use, cultivation, manufacture, and sale of marijuana and marijuana products a crime.

This initiated measure does not affect laws dealing with hemp. Marijuana remains illegal under Federal law.

Filed this 27th day of
July 2023

Monae Johnson

SECRETARY OF STATE

RECEIVED
JUL 23 1953
S.D. SEC. OF STATE

INVITED MEMBER

DEPT. ATTORNEY GENERAL STATE

[Faint, mostly illegible typed text, possibly a letter or report]

Filed this 27th day of July 1953

1953

[Handwritten signature]

SECRETARY OF STATE

70162070000017672125

Attorney General

JUN 5 2023

FROM THE DESK OF

Travis Ismay

June 2, 2023

Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501

Dear Attorney General Marty Jackey,

I have enclosed a ballot initiative to repeal the medical marijuana law in South Dakota. I would like to give a special thanks to the LRC and their staff for informing me on the proper procedure of constructing a ballot initiative. If there's anything that I need to adhere to or change, please contact me by email at tdismay@icloud.com. or call at (605)490-6010 I anxiously await your comments.

Sincerely yours,

Travis Ismay



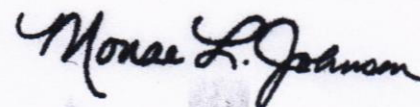
RECEIVED

JUL 27 2023

S.D. SEC. OF STATE

Filed this 27th day of

July 2023



SECRETARY OF STATE

ACCOUNTY CLERK

JUL 2 2023

FOR THE DEPT. OF

Revenue Services

101 20 100000 116 1212

June 2, 2023

101 20 100000 116 1212

101 20 100000 116 1212

101 20 100000 116 1212

101 20 100000 116 1212

101 20 100000 116 1212

Faint, illegible text, possibly a letter or official communication.

101 20 100000 116 1212

101 20 100000 116 1212

RECEIVED
JUL 2 2023
S.D. SEC. OF STATE

Filed this _____ day of _____

Morris S. Johnson

SECRETARY OF STATE

Faint text at the bottom of the page, possibly a footer or reference number.

Initiative petition

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be REPEALED by the voters of the state of South Dakota at the next general election on November 5, 2024

Title: The REPEAL of 34-20G the medical cannabis law.

Section 1. That § 34-20G-1. be REPEALED:

—Terms used in this chapter mean:

- (1) "Allowable amount of cannabis,"
 - (a) Three ounces of cannabis or less;
 - (b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;
 - (c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and
 - (d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;
- (2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:
 - (a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
 - (b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;
 - (c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and
 - (d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;
- (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;
- (4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;
- (5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;
- (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;
- (7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;
- (8) "Debilitating medical condition,"
 - (a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
 - (b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;
- (9) "Department," the Department of Health;
- (10) "Designated caregiver," an individual who:
 - (a) Is at least twenty-one years of age;
 - (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
 - (c) Has not been convicted of a disqualifying felony offense; and
 - (d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;
- (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;
- (12) "Edible cannabis products," any product that:
 - (a) Contains or is infused with cannabis or an extract thereof;
 - (b) Is intended for human consumption by oral ingestion; and
 - (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;
- (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;
- (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;
- (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- (16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

- (17) ~~"Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;~~
- (18) ~~"Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;~~
- (19) ~~"Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:~~
- (a) ~~The cultivation of cannabis by a nonresident cardholder;~~
- (b) ~~The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or~~
- (c) ~~The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;~~
- (20) ~~"Nonresident cardholder," a person who:~~
- (a) ~~Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;~~
- (b) ~~Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;~~
- (c) ~~Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and~~
- (d) ~~Has submitted any documentation required by the department, and has received confirmation of registration;~~
- (21) ~~"Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;~~
- (22) ~~"Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;~~
- (23) ~~"Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;~~
- (24) ~~"Safety sensitive job," any position with tasks or duties that an employer reasonably believes could:~~
- (a) ~~Cause the illness, injury, or death of an individual; or~~
- (b) ~~Result in serious property damage;~~
- (25) ~~"Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and~~
- (26) ~~"Written certification," a document dated and signed by a practitioner:~~
- (a) ~~Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;~~
- (b) ~~Affirming that the document is made in the course of a bona fide practitioner-patient relationship;~~
- (c) ~~Specifying the qualifying patient's debilitating medical condition; and~~
- (d) ~~Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.~~

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

~~A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- (1) ~~The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- (2) ~~Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- (3) ~~Transferring the cannabis to a testing facility;~~
- (4) ~~Compensating a dispensary or a testing facility for goods or services provided;~~
- (5) ~~Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or~~
- (6) ~~Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.~~

Section 3. That § 34-20G-3. be REPEALED:

~~No nonresident cardholder is subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis in accordance with this chapter if the nonresident cardholder does not possess more than three ounces of cannabis and the quantity of cannabis products established by rules promulgated by the department under § 34-20G-72.~~

Section 4. That § 34-20G-4. be REPEALED:

~~There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptom associated with the qualifying patient's debilitating medical condition under this chapter.~~

Section 5. That § 34-20G-5. be REPEALED:

~~No practitioner is subject to arrest, prosecution, or penalty of any kind, or denied any right or privilege, including civil penalty or disciplinary action by the South Dakota Board of Medical and Osteopathic Examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this chapter prevents a practitioner from being sanctioned for:~~

- ~~(1) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or~~
- ~~(2) Failing to properly evaluate a patient's medical condition.~~

Section 6. That § 34-20G-6. be REPEALED:

~~No person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action, denial of the rights and privileges of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is authorized by this chapter merely because that activity is prohibited by federal law.~~

Section 7. That § 34-20G-7. be REPEALED:

~~No person is subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;~~
- ~~(2) Being in the presence or vicinity of the medical use of cannabis that is exempt from criminal or civil penalty by this chapter;~~
- ~~(3) Allowing the person's property to be used for an activity that is exempt from criminal or civil penalty by this chapter; or~~
- ~~(4) Assisting a registered qualifying patient with the act of using or administering cannabis.~~

Section 8. That § 34-20G-8. be REPEALED:

~~No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, transport, or store cannabis or cannabis products;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.~~

Section 9. That § 34-20G-9. be REPEALED:

~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~
- ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or~~
- ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.~~

Section 10. That § 34-20G-10. be REPEALED:

~~No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;~~
- ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;~~
- ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;~~
- ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.~~

Section 11. That § 34-20G-11. be REPEALED:

~~No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;~~
- ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;~~
- ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~
- ~~(4) Receive compensation for services under this section.~~

Section 12. That § 34-20G-12. be REPEALED:

~~A cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction may sell or donate cannabis seeds to a cultivation facility in this state.~~

Section 13. That § 34-20G-13. be REPEALED:

~~Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this chapter, or acts incidental to such use, may not be seized or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding the amount allowed under this chapter, or prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used in accordance with this chapter.~~

Section 14. That § 34-20G-14. be REPEALED:

~~Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.~~

Section 15. That § 34-20G-15. be REPEALED:

~~For the purposes of state law, an activity related to medical cannabis is lawful as long as it is conducted in accordance with this chapter.~~

Section 16. That § 34-20G-16. be REPEALED:

~~No law enforcement officer employed by an agency that receives state or local government funds may expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., if the officer has reason to believe that the activity is in compliance with this chapter. No officer may expend any state or local resources, including the officer's time, to provide any information or logistical support related to any activity to any federal law enforcement authority or prosecuting entity.~~

Section 17. That § 34-20G-17. be REPEALED:

~~No contract entered into by a cardholder, a medical cannabis establishment, or medical cannabis establishment agent, or by a person who allows property to be used for an activity that is exempt from state criminal penalties by this chapter is unenforceable on the basis that activity related to cannabis is prohibited by federal law.~~

Section 18. That § 34-20G-18. be REPEALED:

~~This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~

- ~~(1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;~~
- ~~(2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;~~
- ~~(3) Smoking or vaping cannabis:
 - ~~(a) On any form of public transportation;~~
 - ~~(b) In any public place or any place that is open to the public; or~~
 - ~~(c) If under the age of twenty-one;~~~~
- ~~(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis; or~~
- ~~(5) Performing any safety sensitive job under the influence of cannabis.~~

Section 19. That § 34-20G-19. be REPEALED:

~~A cardholder may not be refused enrollment by a school or a lease by a landlord, or otherwise be penalized by a school or landlord solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation. This section does not prevent a landlord from imposing reasonable restrictions on the medical use of cannabis by a cardholder who resides at the landlord's property.~~

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

~~For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.~~

Section 21. That § 34-20G-21. be REPEALED:

~~No person may be denied custody of, visitation rights with, or parenting time with a minor solely because the person is a cardholder. There is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor. Nothing in this chapter supersedes or otherwise affects custody decisions, visitation rights, or parenting time based upon the best interests of the child.~~

Section 22. That § 34-20G-22. be REPEALED:

~~Except as provided in this chapter, a registered qualifying patient who uses cannabis for a medical purpose shall be afforded all the same rights under state and local law, as the person would be afforded if the person were solely prescribed a pharmaceutical medication, as it pertains to:~~

- ~~(1) Any interaction with a person's employer;~~
- ~~(2) Drug testing by a person's employer; or~~
- ~~(3) Drug testing required by any state or local law, agency, or government official.~~

Section 23. That § 34-20G-23. be REPEALED:

~~The rights provided by §§ 34-20G-19 to 34-20G-25, inclusive, do not apply to the extent that they conflict with an employer's obligations under federal law or regulation or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or regulation.~~

Section 24. That § 34-20G-24. be REPEALED:

~~No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. No employer is prohibited from establishing and enforcing a drug-free workplace policy that may include a drug-testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy.~~

Section 25. That § 34-20G-25. be REPEALED:

~~No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.~~

Section 25.1. That § 34-20G-25.1. be REPEALED:

~~A health care facility, as defined in § 34-12-1-1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, may adopt restrictions on the use of medical cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility.~~

~~No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.~~

Section 26. That § 34-20G-26. be REPEALED:

~~Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.~~

Section 27. That § 34-20G-27. be REPEALED:

~~Nothing in this chapter requires:~~

- ~~(1) A government medical assistance program or private health insurer, workers' compensation insurance carrier, or self-insured employer providing workers' compensation benefits, to reimburse a person for costs associated with the medical use of cannabis;~~
- ~~(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke or vape cannabis on or in that property;~~
- ~~(3) A landlord to allow the cultivation of cannabis on the rental property; or~~
- ~~(4) A state or local government to allow any conduct otherwise permitted by this chapter within a building owned, leased, or occupied by the state or local government.~~

Section 28. That § 34-20G-28. be REPEALED:

~~Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.~~

Section 29. That § 34-20G-29. be REPEALED:

~~No later than November 18, 2021, the department shall issue registry identification cards to qualifying patients who submit the following, in accordance with rules promulgated by the department:~~

- ~~(1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;~~
- ~~(2) The application or renewal fee;~~

- ~~(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;~~
- ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~
- ~~(5) The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;~~
- ~~(6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;~~
- ~~(7) The name of no more than two dispensaries that the qualifying patient designates, if any; and~~
- ~~(8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.~~

Section 30. That § 34-20G-30. be REPEALED:

~~If the qualifying patient is unable to submit the information required by § 34-20G-29 due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.~~

Section 31. That § 34-20G-31. be REPEALED:

~~Except as provided in § 34-20G-32, the department shall:~~

- ~~(1) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;~~
- ~~(2) Issue registry identification cards to a qualifying patient and to a qualifying patient's designated caregivers, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of the qualifying patients; and~~
- ~~(3) Enter the registry identification number of any dispensary the patient designates into the verification system.~~

Section 32. That § 34-20G-32. be REPEALED:

~~The department may conduct a background check of a designated caregiver in order to carry out the provisions of § 34-20G-31.~~

Section 33. That § 34-20G-33. be REPEALED:

~~The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:~~

- ~~(1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and~~
- ~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - ~~(a) Allow the qualifying patient's medical use of cannabis;~~
 - ~~(b) Serve as the qualifying patient's designated caregiver; and~~
 - ~~(c) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.~~~~

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

~~The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:~~

- ~~(1) Does not provide the required information, fee, or materials;~~
- ~~(2) Does not meet the requirement to obtain a registry identification card as defined in § 34-20G-1;~~
- ~~(3) Previously had a registry identification card revoked; or~~
- ~~(4) Provided false information.~~

Section 35. That § 34-20G-35. be REPEALED:

~~The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:~~

- ~~(1) The designated caregiver does not meet the requirements of a designated caregiver as defined in § 34-20G-1;~~
- ~~(2) The applicant does not provide the information required;~~
- ~~(3) The designated caregiver previously had a registry identification card revoked; or~~
- ~~(4) The applicant or the designated caregiver provide false information.~~

Section 36. That § 34-20G-36. be REPEALED:

The department shall give written notice to the qualifying patient of the reason for:

- ~~(1) Denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver; or~~
- ~~(2) Revoking the registry identification card of the qualifying patient or the qualifying patient's designated caregiver.~~

Section 37. That § 34-20G-37. be REPEALED:

~~Denial of an application or renewal under § 34-20G-34 or 34-20G-35 is considered a final department action, subject to judicial review.~~

Section 42. That § 34-20G-42. be REPEALED:

~~A registry identification card shall contain all of the following:~~

- ~~(1) The name of the cardholder;~~
- ~~(2) A designation of whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(3) The date of issuance and expiration date of the registry identification card;~~
- ~~(4) A random ten digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;~~
- ~~(5) If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver will assist;~~
- ~~(6) A clear indication of whether the cardholder has been designated to cultivate cannabis plants for the qualifying patient's medical use;~~
- ~~(7) A photograph of the cardholder; and~~
- ~~(8) The phone number or website address where the card can be verified.~~

Section 43. That § 34-20G-43. be REPEALED:

~~The registry identification card of a qualifying patient and designated caregiver, if any, expires on the date noted by the practitioner in the qualifying patient's written certification, not to exceed one year after the date of issue.~~

Section 44. That § 34-20G-44. be REPEALED:

~~The department shall maintain a confidential list of:~~

- ~~(a) The name, address, phone number, and registry identification card number of each person to whom the department has issued a registry identification card; and~~
- ~~(b) The name, address, and phone number of a registered qualifying patient's parent or legal guardian if the patient is under age eighteen.~~

~~The list may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.~~

Section 45. That § 34-20G-45. be REPEALED:

~~Within one hundred twenty days of July 1, 2021, the department shall establish a secure phone or web based verification system. The verification system shall allow law enforcement personnel and medical cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:~~

- ~~(1) Whether the identification card is valid;~~
- ~~(2) The name of the cardholder;~~
- ~~(3) Whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(4) Whether the cardholder is permitted to cultivate cannabis plants;~~
- ~~(5) The registry identification number of any affiliated registered qualifying patient; and~~
- ~~(6) The registry identification of the qualifying patient's dispensary or dispensaries, if any.~~

Section 46. That § 34-20G-46. be REPEALED:

~~The following notifications are required:~~

- ~~(1) A registered qualifying patient shall notify the department of any change in the applicant's name or address, or if the patient ceases to have a debilitating medical condition, within ten days of the change;~~

- ~~(2) A registered designated caregiver shall notify the department of any change in the caregiver's name or address, or if the caregiver becomes aware the qualifying patient passed away, within ten days of the change;~~
- ~~(3) Before a registered qualifying patient changes a designated caregiver, the patient shall notify the department;~~
- ~~(4) If a registered qualifying patient changes a preference as to who may cultivate cannabis for the patient, the patient shall notify the department;~~
- ~~(5) If a cardholder loses a registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost; and~~
- ~~(6) Before a registered qualifying patient changes a designated dispensary, the patient shall notify the department.~~

Section 47. That § 34-20G-47. be REPEALED:

~~Any notification that a registered qualifying patient is required to make under this chapter may be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to age or medical condition.~~

Section 48. That § 34-20G-48. be REPEALED:

~~If a cardholder notifies the department of any item listed in § 34-20G-46, but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with a new random ten digit alphanumeric identification number within ten days of receiving the updated information and a twenty dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.~~

Section 49. That § 34-20G-49. be REPEALED:

~~If the registered qualifying patient's certifying practitioner notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card is void. However, the registered qualifying patient shall have fifteen days to dispose of or give away any cannabis in the registered qualifying patient's possession.~~

Section 50. That § 34-20G-50. be REPEALED:

~~A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.~~

Section 51. That § 34-20G-51. be REPEALED:

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

- ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- ~~(2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, two flowering cannabis plants, two cannabis plants that are not flowering, and the cannabis produced by those plants;~~
- ~~(3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~
- ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.~~

Section 52. That § 34-20G-52. be REPEALED:

~~An affirmative defense and motion to dismiss shall fail if the prosecution proves that:~~

- ~~(1) The person had a registry identification card revoked for misconduct; or~~
- ~~(2) The purpose for the possession or cultivation of cannabis was not solely for palliative or therapeutic use by the person with a debilitating medical condition who raised the defense.~~

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

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

Section 54. That § 34-20G-54. be REPEALED:

~~If a person demonstrates the person's medical purpose for using cannabis pursuant to this chapter, except as provided in § 34-20G-18, the person is not subject to the following for the person's use of cannabis for medical purposes:~~

- ~~(1) Disciplinary action by an occupational or professional licensing board or bureau; or~~
- ~~(2) Forfeiture of any interest in or right to any property other than cannabis.~~

Section 55. That § 34-20G-55. be REPEALED:

~~Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification number if all of the following conditions are satisfied:~~

- ~~(1) The prospective medical cannabis establishment has submitted all of the following:
 - ~~(a) The application fee;~~
 - ~~(b) An application, including:
 - ~~(i) The legal name of the prospective medical cannabis establishment;~~
 - ~~(ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;~~
 - ~~(iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and~~
 - ~~(iv) Any additional information requested by the department;~~
 - ~~(e) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record keeping and adequate security measures;~~~~
 - ~~(d) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;~~
 - ~~(e) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;~~~~
- ~~(2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;~~
- ~~(3) None of the principal officers or board members is under twenty-one years of age; and~~
- ~~(4) At least one principal officer is a resident of this state.~~

Section 56. That § 34-20G-56. be REPEALED:

~~If a local government has enacted a numerical limit on the number of medical cannabis establishments in the locality and a greater number of applicants seek registration, the department shall solicit and consider input from the local government as to its preference for registration.~~

Section 57. That § 34-20G-57. be REPEALED:

~~The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if the establishment's registration certificate is not under suspension and has not been revoked.~~

Section 58. That § 34-20G-58. be REPEALED:

~~A local government may enact an ordinance not in conflict with this chapter, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality.~~

Section 58.1. That § 34-20G-58.1. be REPEALED:

~~For purposes of this chapter, any municipality that has not enacted a zoning ordinance pursuant to title 11 governing the location of medical cannabis establishments may enact an ordinance to regulate the place of operation of any cannabis-related establishment under this section.~~