

Proposed Statutory Language:

(underscored language indicates added language, ~~strike-through~~ indicates language being removed)

A BILL

FOR AN ACT relating to cannabis; to adopt the Nebraska Medical Cannabis Patient Protection Act.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 3 of this act shall be known and may be cited as the Nebraska Medical Cannabis Patient Protection Act.

Sec. 2. For purposes of the Nebraska Medical Cannabis Patient Protection Act:

(1)(a) Allowable amount of cannabis means up to five ounces of cannabis.

(b) Allowable amount of cannabis does not include the weight of any other ingredient combined with cannabis as part of topical or oral administrations, food, drink, or other preparations.

(2)(a) Cannabis means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(b) Cannabis includes marijuana, hashish, and concentrated cannabis.

(c) Cannabis does not include hemp, nor does it include the mature stalks of the plant, fiber produced from such stalks, oil or cake made from the seeds of the plant, or the sterilized seed of the plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(3) Cannabis accessories means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

(4) Caregiver means:

(a) In the case of a qualified patient who is eighteen years of age or older and is not under the protection of a legal guardian, a person who:

(i) Is at least twenty-one years of age; and

(ii) Has been designated by a qualified patient in a signed affidavit;

(b) In the case of a qualified patient who is younger than eighteen years of age or a qualified patient under the protection of a legal guardian:

(i) The legal guardian or parent with authority to make healthcare decisions of the qualified patient; or

(ii) A person designated in a sworn affidavit by the legal guardian or parent with authority to make healthcare decisions; or

(c) A health care facility as defined in section 71-413 or a home health agency as defined in section 71-417, if the facility or agency has been designated by a qualified patient or the legal guardian or parent with authority to make healthcare decisions of a qualified patient in a sworn affidavit and if the facility or agency has agreed in writing to serve as a caregiver for the qualified patient;

(5) Health care practitioner means a physician, an osteopathic physician, a physician assistant, or a nurse practitioner licensed under the Uniform Credentialing Act or who is licensed in any state and practicing in compliance with the Uniform Credentialing Act;

(6) Qualified patient means:

(a) An individual eighteen years of age or older with a written recommendation from a health care practitioner;
or

(b) An individual younger than eighteen years of age with a written recommendation from a health care practitioner and with the written permission of a legal guardian or parent with authority to make health care decisions for the individual; and

(7) Written recommendation means a valid signed and dated declaration from a health care practitioner stating that, in the health care practitioner's professional judgment, the potential benefits of cannabis outweigh the potential harms for the alleviation of a patient's medical condition, its symptoms, or side effects of the condition's treatment. A written recommendation is valid for two years after the date of issuance or for a period of time specified by the health care practitioner on the written recommendation.

Sec. 3. (1) Subject to the requirements of the Nebraska Medical Cannabis Patient Protection Act, it shall not be an offense under state or local law for:

(a) A qualified patient to use, possess, and acquire an allowable amount of cannabis and cannabis accessories for the alleviation of a medical condition, its symptoms, or side effects of the condition's treatment; or

(b) A caregiver to assist a qualified patient with the activities set forth in subdivision (1)(a) of this section by possessing and acquiring an allowable amount of cannabis and cannabis accessories on behalf of the qualified patient and delivering an allowable amount of cannabis and cannabis accessories to the qualified patient.

(2) Conduct protected by this section shall not be subject to the Uniform Controlled Substances Act.

Proposed Statutory Language:

(underscored language indicates added language, ~~strike-through~~ indicates language being removed)

A BILL

FOR AN ACT relating to cannabis; to adopt the Nebraska Medical Cannabis Regulation Act.

Be it enacted by the people of the State of Nebraska:

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Nebraska Medical Cannabis Regulation Act.

Sec. 2. For purposes of the Nebraska Medical Cannabis Regulation Act:

(1)(a) Cannabis means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(b) Cannabis includes marijuana, hashish, and concentrated cannabis.

(c) Cannabis does not include hemp, nor does it include the mature stalks of the plant, fiber produced from such stalks, oil or cake made from the seeds of the plant, or the sterilized seed of the plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(2) Cannabis accessories means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

(3) Cannabis for medical purposes means cannabis, cannabis products, and cannabis accessories intended for qualified patients pursuant to any law enacted contemporaneously with the adoption of the Nebraska Medical Cannabis Regulation Act or at any time thereafter and which makes penalties inapplicable to the use of cannabis by qualified patients for the alleviation of a medical condition, its symptoms, or side effects of the condition's treatment;

(4) Cannabis products means products that are comprised of cannabis, cannabis concentrate, or cannabis extract, and other ingredients, and that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

(5) Commission means the Nebraska Medical Cannabis Commission;

(6) Registered cannabis establishment means a private entity registered pursuant to the Nebraska Medical Cannabis Regulation Act that possesses, manufactures, distributes, delivers, or dispenses cannabis for medical purposes; and

(7) Registration means a registration granted by the commission to a private entity that processes, manufactures, distributes, delivers, or dispenses cannabis for medical purposes.

Sec. 3. (1) Subject to the requirements of the Nebraska Medical Cannabis Regulation Act, it shall not be an offense under state law for a registered cannabis establishment, its employees, and its agents to possess, manufacture, distribute, deliver, and dispense cannabis for medical purposes, provided such conduct complies with applicable rules and regulations adopted and promulgated by the Nebraska Medical Cannabis Commission pursuant to the Nebraska Medical Cannabis Regulation Act.

(2) Conduct protected by this section shall not be subject to the Uniform Controlled Substances Act.

Sec. 4. (1) For purposes of providing the necessary registration and regulation of persons that possess, manufacture, distribute, deliver, and dispense cannabis for medical purposes pursuant the Nebraska Medical Cannabis Regulation Act, the Nebraska Medical Cannabis Commission is created.

(2) The commission shall consist of no fewer than three and no more than five members.

(3) The three members of the Nebraska Liquor Control Commission shall be ex officio members of the commission, serving terms and receiving appointment in the same manner as provided in section 53-105.

(4) The Governor may appoint two additional members, subject to confirmation by a majority of the members elected to the Legislature, to serve with the members of the Nebraska Liquor Control Commission as members of the Nebraska Medical Cannabis Commission. The members appointed pursuant to this subsection shall serve six-year terms.

(5) The Governor may remove or reappoint members of the commission, subject to approval by a majority of the members elected to the Legislature.

Sec. 5. The power to regulate all phases of the control of the possession, manufacture, distribution, delivery, and dispensing of cannabis for medical purposes by registered cannabis establishments in the state pursuant to the Nebraska Medical Cannabis Regulation Act is vested exclusively in the commission.

Sec. 6. The commission shall:

(1) No later than July 1, 2023, establish criteria to accept or deny applications for registrations, including adopting, promulgating, and enforcing reasonable rules, regulations, and eligibility standards for such registrations;

(2) No later than October 1, 2023, begin granting registrations to applicants that meet eligibility standards and other requirements established by the commission;

(3) Grant, deny, revoke, and suspend registrations based upon reasonable criteria and procedures established by the commission;

(4) Have the authority to adopt, promulgate, and enforce distinct sets of rules and regulations for different categories of registered cannabis establishments;

(5) Administer oaths or affirmations as necessary to carry out the Nebraska Medical Cannabis Regulation Act;

(6) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(7) Inspect the operation of any registered cannabis establishment for the purpose of verifying compliance with rules and regulations adopted and promulgated by the commission;

(8) Have the authority to impose, subject to judicial review under the Administrative Procedures Act, administrative fines for each violation of any rules and regulations adopted and promulgated pursuant to the Nebraska Medical Cannabis Regulation Act;

(9) Collect administrative fines imposed under this section and remit the fines to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(10) Establish procedures for the governance of the commission;

(11) Acquire necessary offices, facilities, counsel, and staff; and

(12) Do all things necessary and proper to carry out its powers and duties under the Nebraska Medical Cannabis Regulation Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.