

2022 South Dakota Legislature

Draft 62

Requested by: at the request of the Adult-Use Marijuana Study Subcommittee

1 **An Act to provide for the use and regulated sale of marijuana.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3
4

5 **Section 1. That § 22-42-1 be AMENDED:**

6 **22-42-1.** Terms used in this chapter mean:

- 7 (1) "Controlled drug or substance," a drug or substance, or an immediate precursor of
8 a drug or substance, listed in Schedules I through IV. The term includes an altered
9 state of a drug or substance listed in Schedules I through IV absorbed into the
10 human body;
- 11 (2) "Counterfeit substance," a controlled drug or substance which, or the container of
12 labeling of which, without authorization, bears the trade-mark, trade name, or
13 other identifying mark, imprint, number, or device, or any likeness thereof, of a
14 manufacturer, distributor, or dispenser other than the person or persons who
15 manufactured, distributed, or dispensed such substance and which thereby falsely
16 purports or is represented to be the product of, or to have been distributed by,
17 such other manufacturer, distributor, or dispenser;
- 18 (3) "~~Deliver~~ or "~~delivery~~," the actual or constructive transfer of a controlled drug,
19 substance, or marijuana whether or not there exists an agency relationship;
- 20 (4) "Dispense," to deliver a controlled drug or substance to the ultimate user or human
21 research subject by or pursuant to the lawful order of a practitioner, including the
22 prescribing, administering, packaging, labeling, or compounding necessary to
23 prepare the substance for such delivery, and a dispenser is one who dispenses;
- 24 (5) "Distribute," to deliver a controlled drug, substance, or marijuana. Distribution
25 means the delivery of a controlled drug, substance, or marijuana;
- 26 (6) "Manufacture," the production, preparation, propagation, compounding, or
27 processing of a controlled drug or substance, either directly or indirectly by
28 extraction from substances of natural origin, or independently by means of

- 1 chemical synthesis or by a combination of extraction and chemical synthesis. A
2 manufacturer includes any person who packages, repackages, or labels any
3 container of any controlled drug or substance, except practitioners who dispense
4 or compound prescription orders ~~for delivery~~ to deliver to the ultimate user;
- 5 (7) "Marijuana," all parts of any plant of the genus cannabis, whether growing or not,
6 in its natural and unaltered state, except for drying or curing and crushing or
7 crumbling. ~~The term includes an altered state of marijuana absorbed into the~~
8 ~~human body.~~ The term does not include fiber produced from the mature stalks of
9 such plant, or oil or cake made from the seeds of such plant. The term does not
10 include the plant Cannabis sativa L. and any part of that plant, including the seeds
11 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts
12 of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol
13 concentration of not more than three-tenths of one percent on a dry weight basis;
- 14 (8) "Marijuana concentrate," the resin extracted from any part of a marijuana plant and
15 every compound, manufacture, salt, derivative, mixture, or preparation from such
16 resin;
- 17 (9) "Practitioner," a doctor of medicine, osteopathy, podiatry, dentistry, optometry, or
18 veterinary medicine licensed to practice his profession, or pharmacists licensed to
19 practice their profession; physician's assistants certified to practice their
20 profession; government employees acting within the scope of their employment;
21 and persons permitted by certificates issued by the Department of Health to
22 distribute, dispense, conduct research with respect to, or administer a substance
23 controlled by chapter 34-20B;
- 24 ~~(9)~~(10) "Precursor" or "immediate precursor," a substance which the Department of
25 Health has found to be and by rule designates as being a principal compound
26 commonly used or produced primarily for use, and which is an immediate chemical
27 intermediary used or likely to be used, in the manufacture of a controlled drug or
28 substance, the control of which is necessary to prevent, curtail, or limit such
29 manufacture;
- 30 ~~(10)~~(11) "Schedule I," "Schedule II," "Schedule III," and "Schedule IV," those
31 schedules of drugs, substances, and immediate precursors listed in chapter 34-
32 20B;
- 33 ~~(11)~~(12) "Ultimate user," a person who lawfully possesses a controlled drug or
34 substance for that person's own use or for the use of a member of that person's

1 household or for administration to an animal owned by that person or by a member
2 of that person's household.

3 **Section 2. That § 22-42-6 be AMENDED:**

4 ~~22-42-6. No person may knowingly possess marijuana. It is a Class 1~~
5 ~~misdemeanor for any person under the age of twenty-one to possess two ounces of~~
6 ~~marijuana or less than four ounces of marijuana. It is a Class 6 felony for any person~~
7 ~~under the age of twenty-one to possess four or more ounces of marijuana. It is a Class 2~~
8 ~~misdemeanor for any person twenty-one or older to possess more than one ounce but~~
9 ~~less than four ounces of marijuana. It is a Class 6 felony Class 1 misdemeanor for any~~
10 ~~person twenty-one or older to possess more than two ounces of marijuana but less than~~
11 ~~one half pound four to sixteen ounces of marijuana. It is a Class 5 Class 6 felony for any~~
12 ~~person twenty-one or older to possess one half pound but less than one pound more than~~
13 ~~sixteen ounces of marijuana. It is a Class 4 felony to possess one to ten pounds of~~
14 ~~marijuana. It is a Class 3 felony to possess more than ten pounds of marijuana. A civil~~
15 ~~penalty may be imposed, in addition to any criminal penalty, upon a conviction of a~~
16 ~~violation of this section not to exceed ten thousand dollars. This section does not apply to~~
17 ~~any person licensed or registered with the state to undertake an activity involving the~~
18 ~~possession of marijuana who acts in compliance with the authorizing law.~~

19 **Section 3. That chapter 22-42 be amended with a NEW SECTION:**

20 It is a Class 1 misdemeanor for any person under the age of twenty-one to possess
21 less than twenty-two grams of marijuana concentrate. It is a Class 6 felony for any person
22 under the age of twenty-one to possess twenty-two grams or more of marijuana
23 concentrate. It is a Class 2 misdemeanor for any person twenty-one or older to possess
24 more than eight grams but less than twenty-two grams of marijuana concentrate. It is a
25 Class 1 misdemeanor for any person twenty-one or older to possess twenty-two grams to
26 eighty-eight grams of marijuana concentrate. It is a Class 6 felony for any person twenty-
27 one or older to possess more than eighty-eight grams of marijuana concentrate. A charge
28 for unauthorized possession of marijuana concentrate must be charged under this section.
29 This section does not apply to any person licensed or registered with the state to undertake
30 an activity involving the possession of marijuana concentrate who acts in compliance with
31 the authorizing law.

32 **Section 4. That § 22-42-7 be AMENDED:**

1 **22-42-7.** ~~The distribution, or possession with intent to distribute, of less than one-~~
2 ~~half ounce of marijuana without consideration is a Class 1 misdemeanor; otherwise, the~~
3 ~~distribution, or possession with intent to distribute, of one ounce or less~~ than four ounces
4 ~~of marijuana to any person twenty-one or older is a Class 6 felony.~~ Class 1 misdemeanor.
5 ~~The distribution, or possession with intent to distribute, of more than one ounce~~ four
6 ~~ounces but less than one-half~~ one pound of marijuana to a person twenty-one or older is
7 ~~a Class 5 felony.~~ Class 6 felony. The distribution, or possession with intent to distribute, of
8 ~~one-half pound but less than one pound~~ or more of marijuana to a person twenty-one or
9 ~~older is a Class 4~~ Class 5 felony. The distribution, or possession with intent to distribute,
10 ~~of one pound or more of marijuana is a Class 3 felony.~~ The distribution, or possession with
11 ~~intent to distribute, of less than one-half ounce of marijuana to a minor~~ any person under
12 ~~the age of twenty-one without consideration is a Class 6 felony.~~ Class 1 misdemeanor;
13 ~~otherwise, the distribution, or possession with intent to distribute, of one ounce~~ four
14 ~~ounces or less of marijuana to a minor~~ any person under the age of twenty-one is a Class
15 ~~5~~ Class 6 felony. The distribution, or possession with intent to distribute, of more than ~~one~~
16 ~~ounce~~ four ounces but less than ~~one-half~~ one pound of marijuana ~~to a minor~~ any person
17 ~~under the age of twenty-one is a Class 4~~ Class 5 felony. ~~The distribution, or possession~~
18 ~~with intent to distribute, of one-half pound but less than one pound of marijuana to a~~
19 ~~minor is a Class 3 felony.~~ The distribution, or possession with intent to distribute, of one
20 ~~pound or more of marijuana to a minor~~ any person under the age of twenty-one is a Class
21 ~~2~~ Class 4 felony. A first conviction of a felony under this section shall be punished by a
22 ~~mandatory sentence in the state penitentiary or county jail of at least thirty days, which~~
23 ~~sentence may not be suspended. A second or subsequent conviction of a felony under this~~
24 ~~section shall be punished by a mandatory sentence of at least one year. Conviction of a~~
25 ~~Class 1 misdemeanor under this section shall be punished by a mandatory sentence in~~
26 ~~county jail of not less than fifteen days, which sentence may not be suspended. A civil~~
27 ~~penalty, not to exceed ten thousand dollars, may be imposed, in addition to any criminal~~
28 ~~penalty, upon a conviction of a felony violation of this section.~~ This section does not apply
29 to any person licensed or registered with the state to undertake an activity involving the
30 distribution, or possession with intent to distribute, of marijuana who acts in compliance
31 with the authorizing law.

32 **Section 5. That chapter 22-42 be amended with a NEW SECTION:**

33 The distribution, or possession with intent to distribute, of less than twenty-two
34 grams of marijuana concentrate to a person twenty-one or older is a Class 1 misdemeanor.

The distribution, or possession with intent to distribute, of twenty-two grams but less than eighty-eight grams of marijuana concentrate to a person twenty-one or older is a Class 6 felony. The distribution, or possession with intent to distribute, of eighty-eight grams or more of marijuana concentrate to a person twenty-one or older is a Class 5 felony. The distribution, or possession with intent to distribute, of less than three grams of marijuana concentrate to any person under the age of twenty-one without consideration is a Class 1 misdemeanor; otherwise, the distribution, or possession with intent to distribute, of twenty-two grams or less of marijuana concentrate to any person under the age of twenty-one is a Class 6 felony. The distribution, or possession with intent to distribute, of more than twenty-two grams of marijuana concentrate but less than eighty-eight grams of marijuana concentrate to any person under the age of twenty-one is a Class 5 felony. The distribution, or possession with intent to distribute, of eighty-eight grams or more of marijuana concentrate to any person under the age of twenty-one is a Class 4 felony. A charge for unauthorized distribution, or possession with intent to distribute, of marijuana concentrate must be charged under this section. This section does not apply to any person licensed or registered with the state to undertake an activity involving the distribution, or possession with intent to distribute, of marijuana concentrate who acts in compliance with the authorizing law.

Section 6. That § 22-42-15 be AMENDED:

22-42-15. Any person who intentionally ingests, inhales, or otherwise takes into the body any substance, except marijuana, marijuana concentrate, or alcoholic beverages as defined in § 35-1-1, for purposes of becoming intoxicated, unless such substance is prescribed by a practitioner of the medical arts lawfully practicing within the scope of the practitioner's practice, is guilty of a Class 1 misdemeanor. The venue for a violation of this section exists in either the jurisdiction in which the substance was ingested, inhaled, or otherwise taken into the body or the jurisdiction in which the substance was detected in the body of the accused.

Section 7. That § 22-42-24 be AMENDED:

22-42-24. While a motor vehicle is located upon a public highway or the right-of-way of a public highway, it is a Class 2 misdemeanor if any person operating or in actual physical control of a motor vehicle smokes or consumes marijuana or marijuana concentrate while the vehicle is being operated. ~~For purposes of this section and § 22-42-~~

1 ~~25, marijuana concentrate is the resin extracted from any part of a marijuana plant and~~
2 ~~every compound, manufacture, salt, derivative, mixture, or preparation from such resin.~~

3 **Section 8. That chapter 22-42 be amended with a NEW SECTION:**

4 No person may smoke marijuana or marijuana concentrate in any public place or
5 place of employment. A violation of this section is a Class 2 misdemeanor. A second or
6 subsequent violation is a Class 1 misdemeanor.

7 **Section 9. That § 22-42A-3 be AMENDED:**

8 **22-42A-3.** No person, knowing the drug-related nature of the object, may use or
9 ~~to~~ possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow,
10 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
11 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the
12 human body any controlled substance ~~or marijuana~~ in violation of this chapter. Any person
13 who violates any provision of this section is guilty of a Class 2 misdemeanor.

14 **Section 10. That § 22-42A-4 be AMENDED:**

15 **22-42A-4.** No person, knowing the drug related nature of the object, may deliver,
16 possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
17 knowing, or under circumstances where one reasonably should know, that it will be used
18 to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
19 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
20 inhale, or otherwise introduce into the human body a controlled substance ~~or marijuana~~
21 in violation of this chapter. Any person who violates any provision of this section is guilty
22 of a Class 6 felony.

23 **Section 11. That chapter 22-42A be amended with a NEW SECTION:**

24 For the purposes of this chapter, marijuana and marijuana concentrate, as defined
25 in § 22-42-1, are not controlled substances.

26 **Section 12. That a NEW SECTION be added to title 34:**

27 Terms used in sections 12 to 60, inclusive, of this Act mean:

28 (1) "Bona fide practitioner-patient relationship,"

- 1 (a) A practitioner and patient have a treatment or consulting relationship, during
2 the course of which the practitioner has completed an assessment of the
3 patient's medical history and current medical condition, including an
4 appropriate in-person physical examination;
5 (b) The practitioner has consulted with the patient with respect to the patient's
6 debilitating medical condition; and
7 (c) The practitioner is available to or offers to provide follow-up care and
8 treatment to the patient, including patient examinations;
9 (2) "Cardholder," a qualifying patient or a parent or legal guardian of a qualifying
10 patient who has been issued and possesses a valid registry identification card;
11 (3) "Cultivator," an entity licensed pursuant to this chapter that acquires, possesses,
12 cultivates, delivers, transfers, transports, supplies, or sells marijuana and related
13 supplies to a marijuana facility;
14 (4) "Debilitating medical condition," chronic or debilitating disease or medical condition
15 or its treatment that produces one or more of the following: cachexia or wasting
16 syndrome; severe, debilitating pain; severe nausea; seizures; or severe and
17 persistent muscle spasms, including those characteristic of multiple sclerosis;
18 (5) "Dispensary," an entity licensed pursuant to this chapter that acquires, possesses,
19 stores, delivers, transfers, transports, sells, supplies, or dispenses marijuana,
20 marijuana concentrate, and related supplies to a consumer;
21 (6) "Manufacturer," an entity licensed pursuant to this chapter that acquires,
22 possesses, manufactures, delivers, transfers, transports, supplies, or sells
23 marijuana products to a marijuana facility;
24 (7) "Marijuana," as defined in § 22-42-1;
25 (8) "Marijuana facility," an entity licensed pursuant to this chapter to cultivate, test,
26 manufacture, or dispense marijuana or marijuana products;
27 (9) "Marijuana product," any product infused with marijuana concentrate, as defined
28 in § 22-42-1, and intended for use or consumption by humans;
29 (10) "Practitioner," a physician who is licensed in this state with authority to prescribe
30 drugs to humans;
31 (11) "Qualifying patient," a person who has been diagnosed by a practitioner as having
32 a debilitating medical condition;
33 (12) "Registry identification card," a document issued by the Department of Health that
34 identifies a person as a registered qualifying patient or the parent or legal guardian
35 of a registered qualifying patient;

1 (13) "Testing facility," an independent entity registered with the Department of
2 Revenue pursuant to this chapter to analyze the safety and potency of marijuana
3 and marijuana products;

4 (14) "Written certification," a document dated and signed by a practitioner, stating that
5 in the practitioner's professional opinion, the patient is likely to receive therapeutic
6 or palliative benefit from the use of marijuana to treat or alleviate the patient's
7 debilitating medical condition or symptom associated with the debilitating medical
8 condition. This document shall affirm that it is made in the course of a bona fide
9 practitioner-patient relationship and shall specify the qualifying patient's
10 debilitating medical condition.

11 **Section 13. That a NEW SECTION be added to title 34:**

12 Neither the secretary of revenue nor any employee of the Department of Revenue
13 whose duties include the licensing of marijuana facilities or regulation of marijuana facility
14 licensees may have any interest, financial or otherwise, in the production, transportation,
15 storage, or sale of marijuana or marijuana products.

16 **Section 14. That a NEW SECTION be added to title 34:**

17 The secretary of revenue shall prescribe the forms for any application for a license
18 provided in this chapter. The application must contain information required by the
19 secretary and necessary to determine the eligibility of the applicant.

20 **Section 15. That a NEW SECTION be added to title 34:**

21 An applicant for a manufacturer, cultivator, or dispensary license under this chapter
22 must initially submit the application to the secretary of revenue.

23 **Section 16. That a NEW SECTION be added to title 34:**

24 After submitting an application under section 15 of this Act, the applicant for a
25 manufacturer, cultivator, or dispensary license shall submit the application to the
26 governing body of the municipality in which the applicant intends to operate, or if outside
27 the corporate limits of a municipality, to the governing body of the county in which the
28 applicant intends to operate. The governing body may charge a reasonable fee that must
29 accompany the application. The license fee shall be retained by the local governing body

1 in which the license shall be issued. If the application is rejected, the fee shall be promptly
2 returned to the applicant.

3 The governing body may approve the application for a manufacturer, cultivator, or
4 dispensary if the governing body deemed the applicant and the proposed location suitable.

5 The requirement to apply for a manufacturer, cultivator, or dispensary license
6 under this section does not apply to any manufacturer, cultivator, or dispensary licensed
7 pursuant to chapter 34-20G until expiration of such license.

8 **Section 17. That a NEW SECTION be added to title 34:**

9 Any applicant for a manufacturer, cultivator, or dispensary license under this
10 chapter shall include the applicant's signed affirmation that the premises to be licensed,
11 for the purposes of search and seizure laws of the state and any ordinances of the county
12 or municipality where the license is issued, are considered public premises. In addition,
13 the affirmation must state:

14 (1) The premises and all buildings, safes, cabinets, lockers, and storerooms on the
15 premises are at all times, on demand of the secretary of revenue, the attorney
16 general, or officers charged with law enforcement in the county or municipality,
17 open to inspection;

18 (2) All of the applicant's records and books dealing with the sale and ownership of
19 marijuana are open to the persons specified in subdivision (1) for inspection; and

20 (3) The application and license issued on the application is a contract between the
21 applicant and the state and the county or municipality having jurisdiction, entitling
22 the state and the county or municipality, for the purpose of enforcing the law,
23 rules, and ordinances, to inspect the applicant's premises and books at any time.

24 **Section 18. That a NEW SECTION be added to title 34:**

25 No license for a marijuana manufacturer, cultivator, or dispensary license may be
26 issued to an applicant until a public hearing is conducted pursuant to this chapter.

27 **Section 19. That a NEW SECTION be added to title 34:**

28 The governing body of any incorporated municipality or county presented with an
29 application for a manufacturer, cultivator, or dispensary license shall fix the time and place
30 for the governing body's hearing on the application. The finance officer or county auditor

1 shall publish one notice, at least one week before the hearing, in the official newspaper of
2 the municipality or county:

3 (1) With the heading "Notice of Hearing Upon Applications for Marijuana Facility;"

4 (2) That states the time and place when and where the applications will be considered;
5 and

6 (3) That states that any person interested in the approval or rejection of any
7 application may appear and be heard.

8 At the hearing, the body shall consider the application and any objection to the
9 application before making a final decision on the application.

10 **Section 20. That a NEW SECTION be added to title 34:**

11 If the governing body of the municipality or county does not approve the
12 application, the governing body shall endorse on the application the reasons for the denial
13 and return the application and fee to the applicant. No further application may be received
14 from the applicant until after the expiration of one year from the date of a denied
15 application. However, if the body denied the application based on the suitability of the
16 location for the license, no further application may be received from the applicant until
17 after three months from the date of the denied application, if the subsequent application
18 is for a different location.

19 **Section 21. That a NEW SECTION be added to title 34:**

20 If the governing body of the municipality or county approves the application, the
21 governing body shall endorse the approval on the application. The licensee is entitled to
22 operate under the license for the succeeding licensing year. The license fee must be
23 deposited in the general fund of the municipality or county.

24 **Section 22. That a NEW SECTION be added to title 34:**

25 Any manufacturer, cultivator, or dispensary licensee under this chapter shall be a
26 person of good moral character and never convicted of a felony. If the licensee is a
27 corporation, the managing officers of the corporation must meet the same qualifications.

28 **Section 23. That a NEW SECTION be added to title 34:**

1 Any manufacturer, cultivator, or dispensary licensee under this chapter shall be
2 the owner or actual lessee of the premises where the business is conducted, and the sole
3 owner of the business operated under the license.

4 **Section 24. That a NEW SECTION be added to title 34:**

5 The secretary of revenue, in compliance with chapter 1-26, may revoke or suspend
6 any manufacturer, cultivator, or dispensary license issued under this chapter upon proof
7 of violation by the licensee, by the licensee's agents or employees, or by the manager or
8 contractual operators of the cultivator, manufacturer, or dispensary facility or their agents
9 or employees operating under a county or municipal license, of:

10 (1) Any provision of this chapter;

11 (2) Any rule promulgated pursuant to this chapter; or

12 (3) Any ordinance or regulation relevant to marijuana control adopted by the political
13 subdivision issuing the license.

14 For any licensee with multiple marijuana facility licenses for the same premises,
15 upon suspension or revocation of any license pursuant to this chapter for that premises,
16 the licensee shall cease operation under all marijuana facility licenses held by the licensee
17 for that same premises for the same period as the suspension or revocation.

18 **Section 25. That a NEW SECTION be added to title 34:**

19 A dispensary license may be revoked by the secretary of revenue because of a
20 violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of
21 marijuana to a person under the age of twenty-one years if the violation was committed
22 by an employee or agent of the dispensary licensee.

23 In addition to any other penalty under law, a dispensary or an agent of a dispensary
24 who intentionally sells or otherwise transfers marijuana or marijuana products in exchange
25 for anything of value to a person under the age of twenty-one years is guilty of a Class 6
26 felony. An agent of a dispensary convicted under this section may not continue to be
27 affiliated with a dispensary and is disqualified from any future affiliation with any
28 marijuana facility under this chapter.

29 This section does not apply if such sale or service of marijuana to a person under
30 the age of twenty-one years was made in accordance with section 50 of this Act.

31 **Section 26. That a NEW SECTION be added to title 34:**

1 The governing body of a municipality or county may recommend to the secretary
2 of revenue following a hearing that any manufacturer, cultivator, or dispensary license
3 issued under this chapter be suspended or revoked for violation of any of the provisions
4 of this chapter or for violations of any ordinance or regulation of the governing body
5 relevant to marijuana control that occurs on the premises of the licensee. Upon receipt of
6 the recommendation, the secretary shall proceed as provided in this chapter.

7 **Section 27. That a NEW SECTION be added to title 34:**

8 Any action taken by the governing body of a municipality or county pursuant to
9 this chapter that requires a public hearing shall be noticed to the licensee, at the address
10 given on the license, at least thirty days in advance of the date set for public hearing. The
11 finance officer or the county auditor shall publish the notice of hearing in the official
12 newspaper of the municipality or county at least one week before the hearing, in a form
13 approved by the governing body.

14 **Section 28. That a NEW SECTION be added to title 34:**

15 If the secretary of revenue receives information of a violation by any manufacturer,
16 cultivator, or dispensary licensee of any provision of this chapter, the secretary must
17 investigate the alleged violation. If there is substantial evidence to support a violation of
18 any provision of this chapter, the secretary must proceed in accordance with this chapter.

19 **Section 29. That a NEW SECTION be added to title 34:**

20 A manufacturer, cultivator, or dispensary applicant or licensee under this chapter
21 or any interested person or governing body has a right to a hearing in relation to any
22 action taken upon the application or license. The hearing must occur, under the provisions
23 of chapter 1-26, in the municipality or county with jurisdiction over the license.

24 **Section 30. That a NEW SECTION be added to title 34:**

25 No manufacturer, cultivator, or dispensary licensee under this chapter, whose
26 license is revoked, may be granted any license under this chapter for one year after the
27 revocation. If any relative of any such former licensee or any of the former licensee's
28 employees or former employees, applies for any such license before the one-year period
29 has elapsed, the license may be granted only upon affirmative and satisfactory proof that
30 the former licensee has no interest in the business.

1 **Section 31. That a NEW SECTION be added to title 34:**

2 No manufacturer, cultivator, or dispensary license granted pursuant to this chapter
3 may be issued unless the applicant has first obtained a sales tax license pursuant to
4 chapter 10-45, if applicable, or a use tax license pursuant to chapter 10-46, if applicable.

5 **Section 32. That a NEW SECTION be added to title 34:**

6 Upon service of the secretary of revenue's order for revocation of the cultivator,
7 manufacturer, or dispensary license on the licensee, all of the licensee's rights under the
8 license terminate, except in the event of a stay on appeal.

9 **Section 33. That a NEW SECTION be added to title 34:**

10 The governing body of a municipality or county may, by ordinance, prohibit the
11 locating of marijuana facilities within its jurisdiction.

12 **Section 34. That a NEW SECTION be added to title 34:**

13 Any cultivator, manufacturer, or dispensary licensee or employee of a licensee who
14 is charged with a felony offense involving a minor, a crime of violence pursuant to
15 subdivision 22-1-2(9), or a felony drug-related offense, on the licensed premises may, as
16 a condition of bond, be prohibited from entering onto the licensed premises.

17 **Section 35. That a NEW SECTION be added to title 34:**

18 No marijuana facility may employ any person under the age of twenty-one, or any
19 person with a conviction for a violation of §§ 22-42-2, 22-42-3, 22-42-4, 22-42-4.3, or
20 22-42-7 within the last ten years.

21 **Section 36. That a NEW SECTION be added to title 34:**

22 All cultivation, manufacturing, and packaging of marijuana or marijuana products
23 must take place at the licensed premises. The licensed premises may only be accessed by
24 agents of the marijuana facility, emergency personnel, and adults who are twenty-one
25 years of age and older who are accompanied by a marijuana facility agent.

26 **Section 37. That a NEW SECTION be added to title 34:**

1 A marijuana facility shall implement appropriate security measures designed to
2 deter and prevent theft of marijuana or marijuana products and unauthorized entrance
3 into any area containing marijuana or marijuana products.

4 **Section 38. That a NEW SECTION be added to title 34:**

5 No person under the age of twenty-one may enter a dispensary, except as provided
6 by section 50 of this Act. A dispensary shall verify the age of every person who enters
7 through a valid government-issued identification card. Each dispensary shall record the
8 name of each person purchasing marijuana or marijuana products from the dispensary.
9 The records kept by a dispensary pursuant to this section are subject to search only
10 through a valid search warrant issued by a judicial officer. A dispensary may not sell or
11 otherwise transfer the records kept pursuant to this section to any person for promotional
12 purposes.

13 **Section 39. That a NEW SECTION be added to title 34:**

14 A person eighteen years or older but less than twenty-one may apply for a registry
15 identification card. The parent or legal guardian of a person seventeen years or younger
16 may apply for a registry identification card on behalf of the person. Registered qualifying
17 patients may only use marijuana products that are not consumed by smoking. The
18 requirement to apply for a registry identification card does not apply to any cardholder
19 twenty-one years or younger possessing a valid registry identification card pursuant to
20 chapter 34-20G until such registry identification card expires.

21 **Section 40. That a NEW SECTION be added to title 34:**

22 No later than November 18, 2022, the Department of Health shall issue registry
23 identification cards to qualifying patients who submit the following, in accordance with
24 rules promulgated by the department:

- 25 (1) A written certification issued by two practitioners within ninety days immediately
26 preceding the date of an application;
27 (2) The application and fee;
28 (3) The name, address, and date of birth of the qualifying patient, except that if the
29 applicant is homeless, no address is required;
30 (4) The name, address, and telephone number of the qualifying patient's practitioners;
31 and

- 1 (5) The name, address, and date of birth of the parent or legal guardian of a qualifying
2 patient seventeen years or younger.

3 **Section 41. That a NEW SECTION be added to title 34:**

- 4 If a qualifying patient is unable to submit the information required by this chapter
5 due to the person's age or medical condition, the person responsible for making medical
6 decisions for the qualifying patient may do so on behalf of the qualifying patient.

7 **Section 42. That a NEW SECTION be added to title 34:**

8 The Department of Health shall:

- 9 (1) Verify the information contained in an application or renewal submitted pursuant
10 to this chapter and approve or deny an application or renewal within fifteen days
11 of receiving a completed application or renewal application; and
12 (2) Issue registry identification cards to a qualifying patient and to a qualifying
13 patient's parent or guardian, if applicable, within five days of approving the
14 application or renewal.

15 **Section 43. That a NEW SECTION be added to title 34:**

16 The Department of Health may only issue a registry identification card to a
17 qualifying patient seventeen years or younger if:

- 18 (1) The qualifying patient's practitioner has explained the potential risks and benefits
19 of marijuana products to the parent or legal guardian with responsibility for health
20 care decisions for the qualifying patient; and
21 (2) The parent or legal guardian with responsibility for health care decisions for the
22 qualifying patient consents in writing to:
23 (a) Allow the qualifying patient's use of marijuana products; and
24 (b) Control the acquisition of marijuana products, the dosage, and the frequency
25 of use by the qualifying patient.

26 **Section 44. That a NEW SECTION be added to title 34:**

27 The Department of Health may only deny an application or renewal of a qualifying
28 patient's registry identification card if the applicant:

- 29 (1) Does not provide the required information, fee, or materials;
30 (2) Previously had a registry identification card revoked; or

1 (3) Provided false information.

2 **Section 45. That a NEW SECTION be added to title 34:**

3 The Department of Health shall give written notice to the qualifying patient of the
4 reason for denying a registry identification card to the qualifying patient or to the
5 qualifying patient's parent or legal guardian. Denial of an application or renewal under this
6 chapter is considered final department action, subject to judicial review.

7 **Section 46. That a NEW SECTION be added to title 34:**

8 A registry identification card shall contain the following:

- 9 (1) The name of the cardholder;
10 (2) A designation of whether the cardholder is a qualifying patient or a parent or legal
11 guardian;
12 (3) The date of issuance and expiration date of the registry identification card;
13 (4) A random ten-digit identification number, containing at least four numbers and at
14 least four letters, that is unique to the cardholder;
15 (5) A photograph of the cardholder; and
16 (6) The phone number or website address where the card can be verified.

17 **Section 47. That a NEW SECTION be added to title 34:**

18 A registry identification card expires one year after the date of issuance. Unless
19 the certifying practitioners state in the written certification that the qualifying patient
20 would benefit from the use of marijuana until a specified earlier date, then the registry
21 identification card expires on that date.

22 **Section 48. That a NEW SECTION be added to title 34:**

23 The Department of Health shall maintain a confidential list of any person to whom
24 the department has issued a registry identification card and the addresses, phone number,
25 and registry identification number of each person. The list may not be combined or linked
26 in any manner with any other list or database, nor may it be used for any purpose not
27 provided for in this chapter. It is a Class 2 misdemeanor for any person, including an
28 employee or official of the department or another state agency or local government, to
29 breach the confidentiality of information obtained under this chapter.

1 **Section 49. That a NEW SECTION be added to title 34:**

2 Within one hundred twenty days of July 1, 2022, the Department of Health shall
3 establish a secure phone or web-based verification system. The verification system shall
4 allow law enforcement personnel and a marijuana facility to enter a registry identification
5 number and determine whether the number corresponds with a current, valid registry
6 identification card. The system may disclose only:

7 (1) Whether the registry identification card is valid;

8 (2) The name of the cardholder;

9 (3) Whether the cardholder is a qualifying patient or a parent or legal guardian of a
10 registered qualifying patient; and

11 (4) The registry identification number of any affiliated registered qualifying patient if
12 the cardholder is a parent or legal guardian.

13 **Section 50. That a NEW SECTION be added to title 34:**

14 A dispensary may sell marijuana products to any person eighteen years or older
15 but less than twenty-one with a valid registry identification card.

16 **Section 51. That a NEW SECTION be added to title 34:**

17 A dispensary licensed under this chapter that sells marijuana products to a
18 cardholder shall:

19 (1) Verify the registry identification card through the secure phone or web-based
20 verification system pursuant to section 49 of this Act;

21 (2) Verify the purchaser is a registered qualifying patient or the parent or legal
22 guardian of a registered qualifying patient;

23 (3) Record the cardholder's information, date of purchase, and amount of marijuana
24 product purchased; and

25 (4) Submit a monthly report to the Department of Health of all sales made to
26 cardholders, including names of marijuana products purchased from the
27 dispensary.

28 **Section 52. That a NEW SECTION be added to title 34:**

29 The Department of Health shall report annually to the Legislature on the number
30 of applications for registry identification cards received, the number of qualifying patients

1 approved, and the number of registry identification cards revoked. The department may
2 not include identifying information on a qualifying patient or practitioner in the report.

3 **Section 53. That a NEW SECTION be added to title 34:**

4 The Department of Education and the Department of Health shall establish policy
5 to allow students who are cardholders to have marijuana products administered in school.
6 This policy shall be implemented the first day of the school year following the effective
7 date of this Act.

8 **Section 54. That a NEW SECTION be added to title 34:**

9 Any person who, in any application, report, or statement, knowingly makes a false
10 statement as to any matter required by any provision of this chapter or any administrative
11 rule promulgated pursuant to this chapter is guilty of a Class 6 felony.

12 **Section 55. That a NEW SECTION be added to title 34:**

13 It is a Class 1 misdemeanor for any person twenty-one years of age or older to
14 purchase or otherwise acquire marijuana or marijuana products from a dispensary and to
15 give or resell the marijuana or marijuana products to any person under the age of twenty-
16 one years. A second or subsequent conviction under this section is a Class 6 felony. This
17 section does not apply to any person who:

- 18 (1) Is the parent or legal guardian of a registered cardholder who is seventeen years
19 or younger;
20 (2) Is a registered cardholder affiliated with the registered cardholder who is seventeen
21 years or younger; and
22 (3) Acquires marijuana products for the registered cardholder who is seventeen years
23 or younger for the treatment of a debilitating medical condition in accordance with
24 this chapter.

25 **Section 56. That a NEW SECTION be added to title 34:**

26 This chapter does not limit or affect laws that prohibit or otherwise regulate:
27 (1) Possession or consumption of marijuana or marijuana products or possession of
28 marijuana or marijuana product paraphernalia on the grounds of any preschool,
29 school, in a school bus, except pursuant to section 53 of this Act;

- 1 (2) Possession or consumption of marijuana or marijuana products on the grounds of
2 any correctional facility;
- 3 (3) Consumption of marijuana or marijuana products as part of a criminal penalty
4 diversion program;
- 5 (4) Conduct that endangers others; or
- 6 (5) Undertaking any task under the influence of marijuana or marijuana products, if
7 doing so would constitute negligence or professional malpractice.

8 **Section 57. That a NEW SECTION be added to title 34:**

9 This chapter does not:

- 10 (1) Require that an employer permit or accommodate conduct allowed by this chapter;
- 11 (2) Affect an employer's ability to restrict the use of marijuana or marijuana products
12 by employees;
- 13 (3) Limit the right of a person who occupies, owns, or controls private property from
14 prohibiting or otherwise regulating conduct permitted by this chapter on or in that
15 property; or
- 16 (4) Limit the ability of the state or local government to prohibit or restrict any conduct
17 otherwise permitted under this chapter within a building owned, leased, or
18 occupied by the state or local government.

19 **Section 58. That a NEW SECTION be added to title 34:**

20 The rights provided by this chapter do not apply to the extent that they conflict
21 with an employer's obligations under federal law or regulation or to the extent that they
22 would disqualify an employer from a monetary or licensing-related benefit under federal
23 law or regulation.

24 **Section 59. That a NEW SECTION be added to title 34:**

25 The Department of Revenue shall promulgate rules pursuant to chapter 1-26:

- 26 (1) Governing the transportation of marijuana and marijuana products to ensure
27 health, safety, and accurate documentation;
- 28 (2) Governing how the department shall evaluate, register, and revoke the registration
29 of testing facilities to ensure the health and safety of consumers of marijuana and
30 marijuana products;

- 1 (3) Establishing the form, quantity, and tetrahydrocannabinol concentration of
2 marijuana products a manufacturer may produce and a dispensary may sell;
- 3 (4) Governing marijuana facilities to ensure the health and safety of consumers and
4 prevent diversion and theft, including:
- 5 (a) Oversight requirements;
6 (b) Record-keeping requirements;
7 (c) Security requirements, including lighting, physical security, and alarm
8 requirements;
9 (d) Health and safety regulations, including restrictions on the use of pesticides
10 that are injurious to human health;
11 (e) Standards for the manufacture of marijuana products and both the indoor and
12 outdoor cultivation of marijuana by a cultivator;
13 (f) Requirements for the storage of marijuana and marijuana products;
14 (g) Employment and training requirements, including requiring that each
15 marijuana facility create an identification badge for each agent;
16 (h) Standards for the safe manufacture of marijuana products;
17 (i) Restrictions on the advertising, signage, and display of marijuana and
18 marijuana products, provided that the restrictions may not prevent
19 appropriate signs on the property of a dispensary, listings in business
20 directories including phone books, listings in marijuana-related or medical
21 publications, or the sponsorship of health or not-for-profit charity or
22 advocacy events;
23 (j) Procedures for the safe packaging and labeling of marijuana and marijuana
24 products; and
25 (k) Testing requirements for marijuana and marijuana products, certification
26 standards for testing facilities, including requirements for equipment and
27 qualifications for personnel;
- 28 (5) Establishing labeling requirements for marijuana and marijuana products, including
29 requiring labels to include the following:
- 30 (a) The tetrahydrocannabinol concentration level and length of time it typically
31 takes for marijuana or a marijuana product to take effect;
32 (b) Disclosing ingredients and possible allergens;
33 (c) A nutritional fact panel; and
34 (d) Requiring that edible marijuana products be clearly identifiable, when
35 practicable, with a standard symbol indicating that it contains marijuana;

- 1 (6) Establishing packaging requirements for marijuana and marijuana products,
2 including that packaging be childproof and resealable;
3 (7) Establishing a seed to sale tracking system to ensure that marijuana plants are
4 tracked from seeds through cultivation, manufacturing, testing, and packaging
5 before sale in a dispensary; and
6 (8) Establishing a requirement that dispensaries conspicuously post warnings to
7 consumers regarding the legal possession limits for marijuana and marijuana
8 products under chapter 22-42 and establishing:
9 (a) Required language;
10 (b) Sign dimensions, font size, and font type; and
11 (c) Acceptable locations for such signage.
12 A violation of a required or prohibited action under any rule authorized by this
13 section is a Class 2 misdemeanor.

14 **Section 60. That a NEW SECTION be added to title 34:**

15 The Department of Health shall promulgate rules pursuant to chapter 1-26:

- 16 (1) Governing the manner in which the department shall consider applications for and
17 renewals of registry identification cards, that may include creating a standardized
18 written certification form;
19 (2) Establishing criteria and procedures for revoking the registry identification cards of
20 cardholders who commit multiple or serious violations of this chapter; and
21 (3) Establishing reasonable application and renewal fees for registry identification
22 cards, according to the following:
23 (a) A sliding scale of patient application and renewal fees based upon a
24 qualifying patient's household income; and
25 (b) The fees charged to qualifying patients shall be no greater than the costs of
26 processing the application and issuing a registry identification card or
27 registration.

28 **Section 61. That a NEW SECTION be added to title 10:**

29 The terms defined in section 12 of this Act have the same meaning in sections 62
30 to 66, inclusive, of this Act.

31 **Section 62. That a NEW SECTION be added to title 10:**

1 There is hereby levied on all marijuana an excise tax imposed of fifteen percent
2 that must be calculated based on the average market rate. A manufacturer shall pay the
3 marijuana excise tax on all marijuana manufactured and sold directly to a dispensary. In
4 order to calculate the tax using the average market rate, the weight or unit of marijuana
5 sold must be multiplied by the average market rate and the result must be multiplied by
6 fifteen percent. For purposes of this section, the term, average market rate, means the
7 average prices as determined by the department on all marijuana sold or transferred from
8 manufacturer to dispensary.

9 **Section 63. That a NEW SECTION be added to title 10:**

10 Each licensee liable for the payment of the taxes levied under this chapter shall file
11 with the secretary of revenue a return, on a form prescribed by the secretary, showing
12 the kind and quantity of marijuana manufactured, received, and on hand, together with
13 the names of the persons from whom received, the amount of tax due, and any other
14 information prescribed by the secretary. The return, covering the period of one calendar
15 month, together with payment of the tax due, must be transmitted to the Department of
16 Revenue on or before the twenty-fifth day of the second month following the close of the
17 reporting period. A violation of this section is a Class 1 misdemeanor.

18 **Section 64. That a NEW SECTION be added to title 10:**

19 Any person required to file returns or reports under this chapter, who fails to file a
20 return or report or pay the tax when due, is subject to interest and penalty at the rates
21 set forth in § 10-59-6. However, for a reasonable cause shown, the secretary of revenue
22 may reduce or eliminate the penalty. If any licensee files a false or fraudulent return, an
23 amount equal to the tax evaded, or attempted to be evaded, shall be added to the tax.
24 Penalty and interest are considered the same as tax for the purposes of collection and
25 enforcement, including liens, distress warrants, and criminal violations. Any payment
26 received for taxes, penalty, or interest is applied first to tax, beginning with the oldest
27 delinquency, then to interest, and then to penalty. No court may enjoin the collection of
28 the tax or civil penalty.

29 **Section 65. That a NEW SECTION be added to title 10:**

30 Any licensee liable for the payment of the taxes shall keep, in current and available
31 form on the licensed premises, records of all purchases, sales, quantities on hand, and

1 any other information the secretary of revenue may prescribe by rule promulgated
2 pursuant to chapter 1-26. The secretary of revenue may require, from any licensee, any
3 reports the secretary prescribes, and the secretary may require the production of any
4 book, record, document, invoice, and voucher kept, maintained, received, or issued by
5 the licensee in connection with the licensee's business that, in the judgment of the
6 secretary, may be necessary to administer and discharge the secretary's duties, to secure
7 the maximum of revenue to be paid, and to carry out the provisions of law. A violation of
8 this section is a Class 1 misdemeanor.

9 If default is made, or if any licensee fails or refuses to furnish any other relevant
10 reports or information upon request, the secretary may enter the licensee's premises
11 where the records are kept and examine the records as necessary to compile the required
12 report. The cost of the examination must be paid by the licensee whose reports are in
13 default.

14 **Section 66. That a NEW SECTION be added to title 10:**

15 There is hereby created within the state treasury the marijuana fund into which all
16 funds collected under this chapter shall be deposited. Expenditures from the fund shall be
17 appropriated through the normal budget process.

18 **Section 67. That chapter 10-45 be amended with a NEW SECTION:**

19 The tax imposed by this chapter applies to the gross receipts of all marijuana and
20 marijuana products sold to any person by a dispensary.

21 **Section 68. That chapter 10-46 be amended with a NEW SECTION:**

22 The tax imposed by this chapter applies to the gross receipts of all marijuana and
23 marijuana products sold to any person by a dispensary.

24 **Section 69. That § 34-20G-1 be REPEALED:**

25 ~~Terms used in this chapter mean:~~

26 ~~(1) "Allowable amount of cannabis," means:~~

27 ~~(a) Three ounces of cannabis or less;~~

28 ~~(b) The quantity of cannabis products as established by rules promulgated by~~
29 ~~the department under § 34-20G-72;~~

- 1 ~~(c) — If the cardholder has a registry identification card allowing cultivation, three~~
2 ~~cannabis plants minimum or as prescribed by physician; and~~
- 3 ~~(d) — If the cardholder has a registry identification card allowing cultivation, the~~
4 ~~amount of cannabis and cannabis products that were produced from the~~
5 ~~cardholder's allowable plants, if the cannabis and cannabis products are~~
6 ~~possessed at the same property where the plants were cultivated;~~
- 7 ~~(2) — "Bona fide practitioner patient relationship,":~~
- 8 ~~(a) — A practitioner and patient have a treatment or consulting relationship,~~
9 ~~during the course of which the practitioner has completed an assessment~~
10 ~~of the patient's medical history and current medical condition, including an~~
11 ~~appropriate in person physical examination;~~
- 12 ~~(b) — The practitioner has consulted with the patient with respect to the patient's~~
13 ~~debilitating medical condition; and~~
- 14 ~~(c) — The practitioner is available to or offers to provide follow up care and~~
15 ~~treatment to the patient, including patient examinations;~~
- 16 ~~(3) — "Cannabis products," any concentrated cannabis, cannabis extracts, and products~~
17 ~~that are infused with cannabis or an extract thereof, and are intended for use or~~
18 ~~consumption by humans. The term includes edible cannabis products, beverages,~~
19 ~~topical products, ointments, oils, and tinctures;~~
- 20 ~~(4) — "Cannabis product manufacturing facility," an entity registered with the~~
21 ~~department pursuant to this chapter that acquires, possesses, manufactures,~~
22 ~~delivers, transfers, transports, supplies, or sells cannabis products to a medical~~
23 ~~cannabis dispensary;~~
- 24 ~~(5) — "Cannabis testing facility" or "testing facility," an independent entity registered~~
25 ~~with the department pursuant to this chapter to analyze the safety and potency of~~
26 ~~cannabis;~~
- 27 ~~(6) — "Cardholder," a qualifying patient or a designated caregiver who has been issued~~
28 ~~and possesses a valid registry identification card;~~
- 29 ~~(7) — "Cultivation facility," an entity registered with the department pursuant to this~~
30 ~~chapter that acquires, possesses, cultivates, delivers, transfers, transports,~~
31 ~~supplies, or sells cannabis and related supplies to a medical cannabis~~
32 ~~establishment;~~
- 33 ~~(8) — "Debilitating medical condition,":~~
- 34 ~~(a) — A chronic or debilitating disease or medical condition or its treatment that~~
35 ~~produces one or more of the following: cachexia or wasting syndrome;~~

- 1 ~~severe, debilitating pain; severe nausea; seizures; or severe and persistent~~
2 ~~muscle spasms, including those characteristic of multiple sclerosis; or~~
3 ~~(b) — Any other medical condition or its treatment added by the department, as~~
4 ~~provided for in § 34-20G-26;~~
5 ~~(9) — "Department," means the Department of Health;~~
6 ~~(10) — "Designated caregiver," a person who:~~
7 ~~(a) — Is at least twenty-one years of age;~~
8 ~~(b) — Has agreed to assist with a qualifying patient's medical use of cannabis;~~
9 ~~(c) — Has not been convicted of a disqualifying felony offense; and~~
10 ~~(d) — Assists no more than five qualifying patients with the medical use of~~
11 ~~cannabis, unless the designated caregiver's qualifying patients each reside~~
12 ~~in or are admitted to a health care facility or residential care facility where~~
13 ~~the designated caregiver is employed;~~
14 ~~(11) — "Disqualifying felony offense," a violent crime that was classified as a felony in the~~
15 ~~jurisdiction where the person was convicted;~~
16 ~~(12) — "Edible cannabis products," any product that:~~
17 ~~(a) — Contains or is infused with cannabis or an extract thereof;~~
18 ~~(b) — Is intended for human consumption by oral ingestion; and~~
19 ~~(c) — Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures,~~
20 ~~or other similar products;~~
21 ~~(13) — "Enclosed, locked facility," any closet, room, greenhouse, building, or other~~
22 ~~enclosed area that is equipped with locks or other security devices that permit~~
23 ~~access only by a cardholder or a person allowed to cultivate the plants. Two or~~
24 ~~more cardholders who reside in the same dwelling may share one enclosed, locked~~
25 ~~facility for cultivation;~~
26 ~~(14) — "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;~~
27 ~~(15) — "Medical cannabis dispensary" or "dispensary," an entity registered with the~~
28 ~~department pursuant to this chapter that acquires, possesses, stores, delivers,~~
29 ~~transfers, transports, sells, supplies, or dispenses cannabis, cannabis products,~~
30 ~~paraphernalia, or related supplies and educational materials to cardholders;~~
31 ~~(16) — "Medical cannabis establishment," a cultivation facility, a cannabis testing facility,~~
32 ~~a cannabis product manufacturing facility, or a dispensary;~~
33 ~~(17) — "Medical cannabis establishment agent," an owner, officer, board member,~~
34 ~~employee, or volunteer at a medical cannabis establishment;~~

- 1 ~~(18) "Medical use," includes the acquisition, administration, cultivation, manufacture,~~
2 ~~delivery, harvest, possession, preparation, transfer, transportation, or use of~~
3 ~~cannabis or paraphernalia relating to the administration of cannabis to treat or~~
4 ~~alleviate a registered qualifying patient's debilitating medical condition or symptom~~
5 ~~associated with the patient's debilitating medical condition. The term does not~~
6 ~~include:~~
- 7 ~~(a) The cultivation of cannabis by a nonresident cardholder;~~
8 ~~(b) The cultivation of cannabis by a cardholder who is not designated as being~~
9 ~~allowed to cultivate on the cardholder's registry identification card; or~~
10 ~~(c) The extraction of resin from cannabis by solvent extraction unless the~~
11 ~~extraction is done by a cannabis product manufacturing facility;~~
- 12 ~~(19) "Nonresident cardholder," a person who:~~
- 13 ~~(a) Has been diagnosed with a debilitating medical condition, or is the parent,~~
14 ~~guardian, conservator, or other person with authority to consent to the~~
15 ~~medical treatment of a person who has been diagnosed with a debilitating~~
16 ~~medical condition;~~
- 17 ~~(b) Is not a resident of this state or who has been a resident of this state for~~
18 ~~fewer than forty five days;~~
- 19 ~~(c) Was issued a currently valid registry identification card or its equivalent by~~
20 ~~another state, district, territory, commonwealth, insular possession of the~~
21 ~~United States, or country recognized by the United States that allows the~~
22 ~~person to use cannabis for medical purposes in the jurisdiction of issuance;~~
23 ~~and~~
- 24 ~~(d) Has submitted any documentation required by the department, and has~~
25 ~~received confirmation of registration;~~
- 26 ~~(20) "Practitioner," a physician who is licensed with authority to prescribe drugs to~~
27 ~~humans. In relation to a nonresident cardholder, the term means a person who is~~
28 ~~licensed with authority to prescribe drugs to humans in the state of the patient's~~
29 ~~residence;~~
- 30 ~~(21) "Qualifying patient," a person who has been diagnosed by a practitioner as having~~
31 ~~a debilitating medical condition;~~
- 32 ~~(22) "Registry identification card," a document issued by the department that identifies~~
33 ~~a person as a registered qualifying patient or registered designated caregiver, or~~
34 ~~documentation that is deemed a registry identification card pursuant to §§ 34-20G-~~
35 ~~29 to 34-20G-42, inclusive; and~~

1 ~~(23) "Written certification," a document dated and signed by a practitioner, stating that~~
2 ~~in the practitioner's professional opinion the patient is likely to receive therapeutic~~
3 ~~or palliative benefit from the medical use of cannabis to treat or alleviate the~~
4 ~~patient's debilitating medical condition or symptom associated with the debilitating~~
5 ~~medical condition. This document shall affirm that it is made in the course of a~~
6 ~~bona fide practitioner-patient relationship and shall specify the qualifying patient's~~
7 ~~debilitating medical condition.~~

8 **Section 70. That § 34-20G-2 be REPEALED:**

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

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

27 **Section 71. That § 34-20G-3 be REPEALED:**

28 ~~No nonresident cardholder is subject to arrest, prosecution, or penalty in any~~
29 ~~manner, or denied any right or privilege, including civil penalty or disciplinary action by a~~
30 ~~business or occupational or professional licensing board or entity, for transporting,~~
31 ~~purchasing, possessing, or using medical cannabis in accordance with this chapter if the~~
32 ~~nonresident cardholder does not possess more than three ounces of cannabis and the~~

1 ~~quantity of cannabis products established by rules promulgated by the department under~~
2 ~~§ 34-20G-72.~~

3 **Section 72. That § 34-20G-4 be REPEALED:**

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

11 **Section 73. That § 34-20G-5 be REPEALED:**

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

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

24 **Section 74. That § 34-20G-6 be REPEALED:**

25 ~~No attorney is subject to disciplinary action by the State Bar of South Dakota or~~
26 ~~other professional licensing association for providing legal assistance to a prospective or~~
27 ~~registered medical cannabis establishment or other related to activity that is not subject~~
28 ~~to criminal penalties under law of this state.~~

29 **Section 75. That § 34-20G-7 be REPEALED:**

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

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

12 **Section 76. That § 34-20G-8 be REPEALED:**

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

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

29 **Section 77. That § 34-20G-9 be REPEALED:**

30 ~~No cultivation facility or a cultivation facility agent is subject to prosecution, search,~~
31 ~~or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of~~
32 ~~any kind, or may be denied any right or privilege, including civil penalty or disciplinary~~

1 ~~action by a court or business licensing board or entity, for acting in accordance with this~~
2 ~~chapter to:~~

3 ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process,~~
4 ~~manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~

5 ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a~~
6 ~~testing facility for services provided;~~

7 ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of~~
8 ~~value is exchanged in return;~~

9 ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~

10 ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the~~
11 ~~equivalent of a medical cannabis establishment that is registered in another~~
12 ~~jurisdiction; or~~

13 ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or~~
14 ~~related supplies or educational materials to a cultivation facility and dispensary.~~

15 **Section 78. That § 34-20G-10 be REPEALED:**

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

21 ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis~~
22 ~~products or cannabis from a cannabis product manufacturing facility;~~

23 ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack,~~
24 ~~repack, and store cannabis or cannabis products;~~

25 ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis~~
26 ~~paraphernalia, or related supplies or educational materials to a dispensary or~~
27 ~~cannabis product manufacturing facility;~~

28 ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing~~
29 ~~facility for services provided; or~~

30 ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis~~
31 ~~paraphernalia, or related supplies or educational materials to a cannabis product~~
32 ~~manufacturing facility or dispensary.~~

33 **Section 79. That § 34-20G-11 be REPEALED:**

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

6 (1) ~~Acquire, possess, transport, and store cannabis or cannabis products obtained from~~
7 ~~a cardholder, nonresident cardholder or medical cannabis establishment;~~

8 (2) ~~Return the cannabis or cannabis products to a cardholder, nonresident cardholder,~~
9 ~~or medical cannabis establishment from whom it was obtained;~~

10 (3) ~~Test cannabis, including for potency, pesticides, mold, or contaminants; or~~

11 (4) ~~Receive compensation for services under this section.~~

12 **Section 80. That § 34-20G-12 be REPEALED:**

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

16 **Section 81. That § 34-20G-13 be REPEALED:**

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

24 **Section 82. That § 34-20G-14 be REPEALED:**

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

30 **Section 83. That § 34-20G-15 be REPEALED:**

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

3 **Section 84. That § 34-20G-16 be REPEALED:**

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

12 **Section 85. That § 34-20G-17 be REPEALED:**

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

17 **Section 86. That § 34-20G-18 be REPEALED:**

18 ~~This chapter does not authorize any person to engage in, and does not prevent the~~
19 ~~imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~
20 ~~(1) Undertaking any task under the influence of cannabis, when doing so would~~
21 ~~constitute negligence or professional malpractice;~~
22 ~~(2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any~~
23 ~~correctional facility;~~
24 ~~(3) Smoking cannabis:~~
25 ~~(a) On any form of public transportation; or~~
26 ~~(b) In any public place or any place that is open to the public;~~
27 ~~(4) Operating, navigating, or being in actual physical control of any motor vehicle,~~
28 ~~aircraft, train, or motorboat while under the influence of cannabis, except that a~~
29 ~~registered qualifying patient or nonresident cardholder is not considered to be~~
30 ~~under the influence of cannabis solely because of the presence of metabolites or~~

1 ~~components of cannabis that appear in insufficient concentration to cause~~
2 ~~impairment.~~

3 **Section 87. That § 34-20G-19 be REPEALED:**

4 ~~No school or landlord may refuse to enroll or lease to and may not otherwise~~
5 ~~penalize a person solely for the person's status as a cardholder, unless failing to do so~~
6 ~~would violate federal law or regulations or cause the school or landlord to lose a monetary~~
7 ~~or licensing-related benefit under federal law or regulation.~~

8 **Section 88. That § 34-20G-20 be REPEALED:**

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

14 **Section 89. That § 34-20G-21 be REPEALED:**

15 ~~No person may be denied custody of or visitation rights or parenting time with a~~
16 ~~minor solely for the person's status as a cardholder, and there is no presumption of neglect~~
17 ~~or child endangerment for conduct allowed under this chapter, unless the person's~~
18 ~~behavior creates an unreasonable danger to the safety of the minor as established by~~
19 ~~clear and convincing evidence.~~

20 **Section 90. That § 34-20G-22 be REPEALED:**

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

25 ~~(1) Any interaction with a person's employer;~~

26 ~~(2) Drug testing by a person's employer; or~~

27 ~~(3) Drug testing required by any state or local law, agency, or government official.~~

28 **Section 91. That § 34-20G-23 be REPEALED:**

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

5 **Section 92. That § 34-20G-24 be REPEALED:**

6 No employer is required to allow the ingestion of cannabis in any workplace or to
7 allow any employee to work while under the influence of cannabis. A registered qualifying
8 patient may not be considered to be under the influence of cannabis solely because of the
9 presence of metabolites or components of cannabis that appear in insufficient
10 concentration to cause impairment.

11 **Section 93. That § 34-20G-25 be REPEALED:**

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

14 **Section 94. That § 34-20G-26 be REPEALED:**

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

22 **Section 95. That § 34-20G-27 be REPEALED:**

23 Nothing in this chapter requires:
24 (1) ~~— A government medical assistance program or private insurer to reimburse a person~~
25 ~~for costs associated with the medical use of cannabis;~~
26 (2) ~~— Any person or establishment in lawful possession of property to allow a guest,~~
27 ~~client, customer, or other visitor to smoke cannabis on or in that property; or~~
28 (3) ~~— A landlord to allow the cultivation of cannabis on the rental property.~~

29 **Section 96. That § 34-20G-28 be REPEALED:**

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

3 **Section 97. That § 34-20G-29 be REPEALED:**

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

7 ~~(1) A written certification issued by a practitioner within ninety days immediately~~
8 ~~preceding the date of an application;~~

9 ~~(2) The application or renewal fee;~~

10 ~~(3) The name, address, and date of birth of the qualifying patient, except that if the~~
11 ~~applicant is homeless, no address is required;~~

12 ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~

13 ~~(5) The name, address, and date of birth of the designated caregiver, or designated~~
14 ~~caregivers, chosen by the qualifying patient;~~

15 ~~(6) If more than one designated caregiver is designated at any given time,~~
16 ~~documentation demonstrating that a greater number of designated caregivers are~~
17 ~~needed due to the patient's age or medical condition;~~

18 ~~(7) The name of no more than two dispensaries that the qualifying patient designates,~~
19 ~~if any; and~~

20 ~~(8) If the qualifying patient designates a designated caregiver, a designation as to~~
21 ~~whether the qualifying patient or designated caregiver will be allowed under state~~
22 ~~law to possess and cultivate cannabis plants for the qualifying patient's medical~~
23 ~~use.~~

24 **Section 98. That § 34-20G-30 be REPEALED:**

25 ~~If the qualifying patient is unable to submit the information required by § 34-20G-~~
26 ~~29 due to the person's age or medical condition, the person responsible for making medical~~
27 ~~decisions for the qualifying patient may do so on behalf of the qualifying patient.~~

28 **Section 99. That § 34-20G-31 be REPEALED:**

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

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

10 **Section 100. That § 34-20G-32 be REPEALED:**

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

13 **Section 101. That § 34-20G-33 be REPEALED:**

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

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

25 **Section 102. That § 34-20G-34 be REPEALED:**

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

- 28 ~~(1) — Does not provide the required information, fee, or materials;~~
29 ~~(2) — Previously had a registry identification card revoked; or~~
30 ~~(3) — Provided false information.~~

31 **Section 103. That § 34-20G-35 be REPEALED:**

- 1 ~~The department may deny an application or renewal for a designated caregiver~~
2 ~~chosen by a qualifying patient whose registry identification card was granted only if:~~
3 ~~(1) The designated caregiver does not meet the requirements of a designated~~
4 ~~caregiver as defined in § 34-20G-1;~~
5 ~~(2) The applicant does not provide the information required;~~
6 ~~(3) The designated caregiver previously had a registry identification card revoked; or~~
7 ~~(4) The applicant or the designated caregiver provide false information.~~

8 **Section 104. That § 34-20G-36 be REPEALED:**

9 ~~The department shall give written notice to the qualifying patient of the reason for~~
10 ~~denying a registry identification card to the qualifying patient or to the qualifying patient's~~
11 ~~designated caregiver.~~

12 **Section 105. That § 34-20G-37 be REPEALED:**

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

15 **Section 106. That § 34-20G-38 be REPEALED:**

16 ~~Until a qualifying patient who has submitted an application and the required fee to~~
17 ~~the department receives a registry identification card or a denial, a copy of the patient's~~
18 ~~application, written certification, and proof that the application was submitted to the~~
19 ~~department is deemed a registry identification card.~~

20 **Section 107. That § 34-20G-39 be REPEALED:**

21 ~~Until a designated caregiver whose qualifying patient has submitted an application~~
22 ~~and the required fee receives a registry identification card or a denial, a copy of the~~
23 ~~qualifying patient's application, written certification, and proof that the application was~~
24 ~~submitted to the department is deemed a registry identification card.~~

25 **Section 108. That § 34-20G-40 be REPEALED:**

26 ~~Until twenty five days after the department makes applications available, a valid,~~
27 ~~written certification issued within the previous year shall be deemed a registry~~
28 ~~identification card for a qualifying patient.~~

1 **Section 109. That § 34-20G-41 be REPEALED:**

2 ~~Until twenty five days after the department makes applications available, the~~
3 ~~following is considered a designated caregiver registry identification card:~~

- 4 ~~(1) A copy of a qualifying patient's valid written certification issued within the previous~~
5 ~~year; and~~
6 ~~(2) A signed affidavit attesting that the person has significant responsibility for~~
7 ~~managing the well being of the patient and that the person has been chosen to~~
8 ~~assist the qualifying patient.~~

9 **Section 110. That § 34-20G-42 be REPEALED:**

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

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

23 **Section 111. That § 34-20G-43 be REPEALED:**

24 ~~A registry identification card expires one year after the date of issue. Unless the~~
25 ~~practitioner states in the written certification that the qualifying patient would benefit from~~
26 ~~cannabis until a specified earlier date, then the registry identification card expires on that~~
27 ~~date.~~

28 **Section 112. That § 34-20G-44 be REPEALED:**

29 ~~The department shall maintain a confidential list of any person to whom the~~
30 ~~department has issued a registry identification card and the addresses, phone number,~~
31 ~~and registry identification number of each person. The list may not be combined or linked~~

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

3 **Section 113. That § 34-20G-45 be REPEALED:**

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

9 ~~(1) Whether the identification card is valid;~~

10 ~~(2) The name of the cardholder;~~

11 ~~(3) Whether the cardholder is a qualifying patient or a designated caregiver;~~

12 ~~(4) Whether the cardholder is permitted to cultivate cannabis plants;~~

13 ~~(5) The registry identification number of any affiliated registered qualifying patient;~~
14 ~~and~~

15 ~~(6) The registry identification of the qualifying patient's dispensary or dispensaries, if~~
16 ~~any.~~

17 **Section 114. That § 34-20G-46 be REPEALED:**

18 ~~The following notifications are required:~~

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

22 ~~(2) A registered designated caregiver shall notify the department of any change in the~~
23 ~~caregiver's name or address, or if the caregiver becomes aware the qualifying~~
24 ~~patient passed away, within ten days of the change;~~

25 ~~(3) Before a registered qualifying patient changes a designated caregiver, the patient~~
26 ~~shall notify the department;~~

27 ~~(4) If a registered qualifying patient changes a preference as to who may cultivate~~
28 ~~cannabis for the patient, the patient shall notify the department;~~

29 ~~(5) If a cardholder loses a registry identification card, the cardholder shall notify the~~
30 ~~department within ten days of becoming aware the card has been lost; and~~

31 ~~(6) Before a registered qualifying patient changes a designated dispensary, the patient~~
32 ~~shall notify the department.~~

1 **Section 115. That § 34-20G-47 be REPEALED:**

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

5 **Section 116. That § 34-20G-48 be REPEALED:**

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

13 **Section 117. That § 34-20G-49 be REPEALED:**

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

20 **Section 118. That § 34-20G-50 be REPEALED:**

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

23 **Section 119. That § 34-20G-51 be REPEALED:**

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

27 ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after~~
28 ~~having completed a full assessment of the person's medical history and current~~
29 ~~medical condition made in the course of a bona fide practitioner-patient~~

1 ~~relationship, the patient has a debilitating medical condition and the potential~~
2 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~
3 ~~risks for the person;~~

4 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~
5 ~~amount of cannabis products allowed by department rules, six cannabis plants~~
6 ~~minimum or as prescribed by a physician, and the cannabis produced by those~~
7 ~~plants;~~

8 ~~(3) The person was engaged in the acquisition, possession, use, manufacture,~~
9 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~
10 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~
11 ~~condition or symptoms associated with the person's debilitating medical condition;~~
12 ~~and~~

13 ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis~~
14 ~~occurred in a secure location that only the person asserting the defense could~~
15 ~~access.~~

16 **Section 120. That § 34-20G-52 be REPEALED:**

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

19 ~~(1) The person had a registry identification card revoked for misconduct; or~~

20 ~~(2) The purpose for the possession or cultivation of cannabis was not solely for~~
21 ~~palliative or therapeutic use by the person with a debilitating medical condition who~~
22 ~~raised the defense.~~

23 **Section 121. That § 34-20G-53 be REPEALED:**

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

26 **Section 122. That § 34-20G-54 be REPEALED:**

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

30 ~~(1) Disciplinary action by an occupational or professional licensing board or bureau; or~~

31 ~~(2) Forfeiture of any interest in or right to any property other than cannabis.~~

1 **Section 123. That § 34-20G-55 be REPEALED:**

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

6 ~~(1) The prospective medical cannabis establishment has submitted all of the following:~~

7 ~~(a) The application fee;~~

8 ~~(b) An application, including:~~

9 ~~(i) The legal name of the prospective medical cannabis establishment;~~

10 ~~(ii) The physical address of the prospective medical cannabis~~
11 ~~establishment that is not within one thousand feet of a public or~~
12 ~~private school existing before the date of the medical cannabis~~
13 ~~establishment application;~~

14 ~~(iii) The name and date of birth of each principal officer and board~~
15 ~~member of the proposed medical cannabis establishment; and~~

16 ~~(iv) Any additional information requested by the department;~~

17 ~~(c) Operating procedures consistent with rules for oversight of the proposed~~
18 ~~medical cannabis establishment, including procedures to ensure accurate~~
19 ~~record keeping and adequate security measures;~~

20 ~~(d) If the city or county where the proposed medical cannabis establishment~~
21 ~~would be located has enacted zoning restrictions, a sworn statement~~
22 ~~certifying that the proposed medical cannabis establishment does not~~
23 ~~violate the restrictions;~~

24 ~~(e) If the city or county where the proposed medical cannabis establishment~~
25 ~~requires a local registration, license, or permit, a copy of the registration,~~
26 ~~license, or permit;~~

27 ~~(2) None of the principal officers or board members has served as a principal officer or~~
28 ~~board member for a medical cannabis establishment that has had its registration~~
29 ~~certificate revoked;~~

30 ~~(3) None of the principal officers or board members is under twenty one years of age;~~
31 ~~and~~

32 ~~(4) At least one principal officer is a resident of this state.~~

33 **Section 124. That § 34-20G-56 be REPEALED:**

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

5 **Section 125. That § 34-20G-57 be REPEALED:**

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

10 **Section 126. That § 34-20G-58 be REPEALED:**

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

16 **Section 127. That § 34-20G-59 be REPEALED:**

17 ~~No local government may prohibit a dispensary, either expressly or through the~~
18 ~~enactment of an ordinance that makes the operation of the dispensary impracticable in~~
19 ~~the jurisdiction.~~

20 **Section 128. That § 34-20G-60 be REPEALED:**

21 ~~A local government may require a medical cannabis establishment to obtain a local~~
22 ~~license, permit, or registration to operate, and may charge a reasonable fee for the local~~
23 ~~license, permit, or registration.~~

24 **Section 129. That § 34-20G-61 be REPEALED:**

25 ~~Each medical cannabis establishment shall conduct a background check into the~~
26 ~~criminal history of each person seeking to become a principal officer, board member,~~
27 ~~agent, volunteer, or employee before the person begins working at the medical cannabis~~
28 ~~establishment.~~

1 **Section 130. That § 34-20G-62 be REPEALED:**

2 ~~A medical cannabis establishment may not employ any person who:~~
3 ~~(1) Was convicted of a disqualifying felony offense; or~~
4 ~~(2) Is under twenty one years of age.~~

5 **Section 131. That § 34-20G-63 be REPEALED:**

6 ~~Each medical cannabis establishment shall have operating documents that include~~
7 ~~procedures for the oversight of the medical cannabis establishment and procedures to~~
8 ~~ensure accurate record keeping.~~

9 **Section 132. That § 34-20G-64 be REPEALED:**

10 ~~A medical cannabis establishment shall implement appropriate security measures~~
11 ~~designed to deter and prevent the theft of cannabis and unauthorized entrance into any~~
12 ~~area containing cannabis.~~

13 **Section 133. That § 34-20G-65 be REPEALED:**

14 ~~All cultivation, harvesting, manufacturing and packaging of cannabis shall take~~
15 ~~place in a secure facility at a physical address provided to the department during the~~
16 ~~registration process. The secure facility may only be accessed by agents of the medical~~
17 ~~cannabis establishment, emergency personnel, and adults who are twenty one years of~~
18 ~~age and older and who are accompanied by a medical cannabis establishment agent.~~

19 **Section 134. That § 34-20G-66 be REPEALED:**

20 ~~No medical cannabis establishment other than a cannabis product manufacturer~~
21 ~~may produce cannabis concentrates, cannabis extractions, or other cannabis products.~~

22 **Section 135. That § 34-20G-67 be REPEALED:**

23 ~~A medical cannabis establishment may not share office space with or refer a patient~~
24 ~~to a practitioner.~~

25 **Section 136. That § 34-20G-68 be REPEALED:**

26 ~~A medical cannabis establishment may not permit any person to consume cannabis~~
27 ~~on the property of a medical cannabis establishment.~~

1 **Section 137. That § 34-20G-69 be REPEALED:**

2 A medical cannabis establishment is subject to inspection by the department during
3 ~~business hours.~~

4 **Section 138. That § 34-20G-70 be REPEALED:**

5 ~~Before cannabis may be dispensed to a cardholder or nonresident cardholder, a~~
6 ~~dispensary agent:~~

7 ~~(1) Shall make a diligent effort to verify that the registry identification card or~~
8 ~~registration presented to the dispensary is valid;~~

9 ~~(2) Shall make a diligent effort to verify that the person presenting the documentation~~
10 ~~is the person identified on the document presented to the dispensary agent;~~

11 ~~(3) May not dispense an amount of cannabis to a person that would cause the person~~
12 ~~to possess more than the allowable amount of cannabis; and~~

13 ~~(4) Shall make a diligent effort to verify that the dispensary is the current dispensary~~
14 ~~that was designated by the cardholder or nonresident cardholder.~~

15 **Section 139. That § 34-20G-71 be REPEALED:**

16 ~~A dispensary may not dispense more than three ounces of cannabis to a~~
17 ~~nonresident cardholder or a registered qualifying patient, directly or via a designated~~
18 ~~caregiver, in any fourteen day period. A dispensary shall ensure compliance with the~~
19 ~~limitation under this section by maintaining internal, confidential records that include~~
20 ~~records specifying how much cannabis is dispensed to a nonresident cardholder or~~
21 ~~registered qualifying patient and whether it is dispensed directly to a registered qualifying~~
22 ~~patient or to the designated caregiver.~~

23 **Section 140. That § 34-20G-72 be REPEALED:**

24 ~~Not later than October 29, 2021, the department shall promulgate rules pursuant~~
25 ~~to chapter 1-26:~~

26 ~~(1) Governing the manner in which the department shall consider petitions from the~~
27 ~~public to add a debilitating medical condition or treatment to the list of debilitating~~
28 ~~medical conditions as defined by this chapter, including public notice of and an~~
29 ~~opportunity to comment in public hearings on the petitions;~~

30 ~~(2) Establishing the form and content of registration and renewal applications~~
31 ~~submitted under this chapter;~~

- 1 ~~(3) Establishing a system to numerically score competing medical cannabis~~
2 ~~establishment applicants, in cases where more applicants apply than are allowed~~
3 ~~by the local government, that includes analysis of:~~
- 4 ~~(a) The preference of the local government;~~
 - 5 ~~(b) In the case of dispensaries, the suitability of the proposed location and its~~
6 ~~accessibility for patients;~~
 - 7 ~~(c) The character, veracity, background, qualifications, and relevant experience~~
8 ~~of principal officers and board members; and~~
 - 9 ~~(d) The business plan proposed by the applicant, that in the case of a cultivation~~
10 ~~facility or dispensary shall include the ability to maintain an adequate supply~~
11 ~~of cannabis, plans to ensure safety and security of patrons and the~~
12 ~~community, procedures to be used to prevent diversion, and any plan for~~
13 ~~making cannabis available to low income registered qualifying patients;~~
- 14 ~~(4) Governing the manner in which the department shall consider applications for and~~
15 ~~renewals of registry identification cards, that may include creating a standardized~~
16 ~~written certification form;~~
- 17 ~~(5) Governing medical cannabis establishments to ensure the health and safety of~~
18 ~~qualifying patients and prevent diversion and theft without imposing an undue~~
19 ~~burden or compromising the confidentiality of a cardholder, including:~~
- 20 ~~(a) Oversight requirements;~~
 - 21 ~~(b) Record-keeping requirements;~~
 - 22 ~~(c) Security requirements, including lighting, physical security, and alarm~~
23 ~~requirements;~~
 - 24 ~~(d) Health and safety regulations, including restrictions on the use of pesticides~~
25 ~~that are injurious to human health;~~
 - 26 ~~(e) Standards for the manufacture of cannabis products and both the indoor~~
27 ~~and outdoor cultivation of cannabis by a cultivation facility;~~
 - 28 ~~(f) Requirements for the transportation and storage of cannabis by a medical~~
29 ~~cannabis establishment;~~
 - 30 ~~(g) Employment and training requirements, including requiring that each~~
31 ~~medical cannabis establishment create an identification badge for each~~
32 ~~agent;~~
 - 33 ~~(h) Standards for the safe manufacture of cannabis products, including extracts~~
34 ~~and concentrates;~~

- 1 ~~(i) — Restrictions on the advertising, signage, and display of medical cannabis,~~
2 ~~provided that the restrictions may not prevent appropriate signs on the~~
3 ~~property of a dispensary, listings in business directories including phone~~
4 ~~books, listings in marijuana related or medical publications, or the~~
5 ~~sponsorship of health or not for profit charity or advocacy events;~~
6 ~~(j) — Requirements and procedures for the safe and accurate packaging and~~
7 ~~labeling of medical cannabis; and~~
8 ~~(k) — Certification standards for testing facilities, including requirements for~~
9 ~~equipment and qualifications for personnel;~~
10 ~~(6) — Establishing procedures for suspending or terminating the registration certificates~~
11 ~~or registry identification cards of cardholders and medical cannabis establishments~~
12 ~~that commit multiple or serious violations of this chapter;~~
13 ~~(7) — Establishing labeling requirements for cannabis and cannabis products, including~~
14 ~~requiring cannabis product labels to include the following:~~
15 ~~(a) — The length of time it typically takes for a product to take effect;~~
16 ~~(b) — Disclosing ingredients and possible allergens;~~
17 ~~(c) — A nutritional fact panel; and~~
18 ~~(d) — Requiring that edible cannabis products be clearly identifiable, when~~
19 ~~practicable, with a standard symbol indicating that it contains cannabis;~~
20 ~~(8) — Establishing procedures for the registration of nonresident cardholders and the~~
21 ~~cardholder's designation of no more than two dispensaries, which shall require the~~
22 ~~submission of:~~
23 ~~(a) — A practitioner's statement confirming that the patient has a debilitating~~
24 ~~medical condition; and~~
25 ~~(b) — Documentation demonstrating that the nonresident cardholder is allowed to~~
26 ~~possess cannabis or cannabis preparations in the jurisdiction where the~~
27 ~~nonresident cardholder resides;~~
28 ~~(9) — Establishing the amount of cannabis products, including the amount of~~
29 ~~concentrated cannabis, each cardholder and nonresident cardholder may possess;~~
30 ~~and~~
31 ~~(10) — Establishing reasonable application and renewal fees for registry identification~~
32 ~~cards and registration certificates, according to the following:~~
33 ~~(a) — Application fees for medical cannabis establishments may not exceed five~~
34 ~~thousand dollars, with this upper limit adjusted annually for inflation;~~

1 ~~(b) The total fees collected shall generate revenues sufficient to offset all~~
2 ~~expenses of implementing and administering this chapter;~~

3 ~~(c) A sliding scale of patient application and renewal fees based upon a~~
4 ~~qualifying patient's household income;~~

5 ~~(d) The fees charged to qualifying patients, nonresident cardholders, and~~
6 ~~caregivers shall be no greater than the costs of processing the application~~
7 ~~and issuing a registry identification card or registration; and~~

8 ~~(e) The department may accept donations from private sources to reduce~~
9 ~~application and renewal fees.~~

10 ~~A violation of a required or prohibited action under any rule authorized by this~~
11 ~~section is a Class 2 misdemeanor.~~

12 **Section 141. That § 34-20G-73 be REPEALED:**

13 ~~A cardholder or medical cannabis establishment who fails to provide a notice~~
14 ~~required by this chapter is subject to a civil penalty of no more than one hundred fifty~~
15 ~~dollars. Any civil penalty collected shall be deposited in the state general fund.~~

16 **Section 142. That § 34-20G-74 be REPEALED:**

17 ~~In addition to any other penalty under law, a medical cannabis establishment or~~
18 ~~an agent of a medical cannabis establishment who intentionally sells or otherwise transfers~~
19 ~~cannabis in exchange for anything of value to a person other than a cardholder, a~~
20 ~~nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a~~
21 ~~Class 6 felony. A person convicted under this section may not continue to be affiliated with~~
22 ~~the medical cannabis establishment and is disqualified from any future affiliation with any~~
23 ~~medical cannabis establishment under this chapter.~~

24 **Section 143. That § 34-20G-75 be REPEALED:**

25 ~~In addition to any other penalty under law, a cardholder or nonresident cardholder~~
26 ~~who intentionally sells or otherwise transfers cannabis in exchange for anything of value~~
27 ~~to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis~~
28 ~~establishment or its agent is guilty of a Class 6 felony.~~

29 **Section 144. That § 34-20G-76 be REPEALED:**

1 ~~A person who intentionally makes a false statement to a law enforcement official~~
2 ~~about any fact or circumstance relating to the medical use of cannabis to avoid arrest or~~
3 ~~prosecution is guilty of a Class 2 misdemeanor. The penalty is in addition to any other~~
4 ~~penalty that may apply for making a false statement or for the possession, cultivation, or~~
5 ~~sale of cannabis not protected by this chapter. If a person convicted of violating this~~
6 ~~section is a cardholder, the person is disqualified from being a cardholder under this~~
7 ~~chapter.~~

8 **Section 145. That § 34-20G-77 be REPEALED:**

9 ~~A person who knowingly submits false records or documentation required by the~~
10 ~~department to certify a medical cannabis establishment under this chapter is guilty of~~
11 ~~Class 6 felony.~~

12 **Section 146. That § 34-20G-78 be REPEALED:**

13 ~~A practitioner who knowingly refers patients to a medical cannabis establishment~~
14 ~~or to a designated caregiver, who advertises in a medical cannabis establishment, or who~~
15 ~~issues written certifications while holding a financial interest in a medical cannabis~~
16 ~~establishment is guilty of a Class 2 misdemeanor.~~

17 **Section 147. That § 34-20G-79 be REPEALED:**

18 ~~It is a Class 2 misdemeanor for any person, including an employee or official of the~~
19 ~~department or another state agency or local government, to breach the confidentiality of~~
20 ~~information obtained under this chapter.~~

21 **Section 148. That § 34-20G-80 be REPEALED:**

22 ~~The department may on its own motion or on complaint, after investigation and~~
23 ~~opportunity for a public hearing at which the medical cannabis establishment has been~~
24 ~~afforded an opportunity to be heard, suspend or revoke a registration certificate for~~
25 ~~multiple negligent or knowing violations or for a serious and knowing violation by the~~
26 ~~registrant or any of its agents of this chapter.~~

27 **Section 149. That § 34-20G-81 be REPEALED:**

28 ~~The department shall provide notice of suspension, revocation, fine, or other~~
29 ~~sanction, as well as the required notice of the hearing, by mailing the same in writing to~~

1 ~~the medical cannabis establishment at the address on the registration certificate. A~~
2 ~~suspension may not be for a longer period than six months.~~

3 **Section 150. That § 34-20G-82 be REPEALED:**

4 ~~A medical cannabis establishment may continue to possess cannabis during a~~
5 ~~suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may~~
6 ~~continue to cultivate and possess cannabis plants during a suspension, but it may not~~
7 ~~dispense, transfer, or sell cannabis.~~

8 **Section 151. That § 34-20G-83 be REPEALED:**

9 ~~The department shall immediately revoke the registry identification card of any~~
10 ~~cardholder who sells cannabis to a person who is not allowed to possess cannabis for~~
11 ~~medical purposes under this chapter, and the cardholder is disqualified from being a~~
12 ~~cardholder under this chapter.~~

13 **Section 152. That § 34-20G-84 be REPEALED:**

14 ~~The department may revoke the registry identification card of any cardholder who~~
15 ~~knowingly commits multiple unintentional violations or a serious knowing violation of this~~
16 ~~chapter.~~

17 **Section 153. That § 34-20G-85 be REPEALED:**

18 ~~Revocation under § 34-20G-80 is a final decision of the department subject to~~
19 ~~judicial review.~~

20 **Section 154. That § 34-20G-86 be REPEALED:**

21 ~~Data in a registration application and supporting data submitted by a qualifying~~
22 ~~patient, designated caregiver, nonresident cardholder or medical cannabis establishment,~~
23 ~~including data on designated caregiver or practitioner, is private data that is confidential.~~

24 **Section 155. That § 34-20G-87 be REPEALED:**

25 ~~Data kept or maintained by the department may not be used for any purpose not~~
26 ~~provided for in this chapter and may not be combined or linked in any manner with any~~
27 ~~other list or database.~~

1 **Section 156. That § 34-20G-88 be REPEALED:**

2 ~~Data kept or maintained by the department may be disclosed solely for:~~

- 3 ~~(1) The verification of a registration certificate or registry identification card pursuant~~
4 ~~to this chapter;~~
- 5 ~~(2) Submission of the annual report required by this chapter;~~
- 6 ~~(3) Notification of state or local law enforcement of an apparent criminal violation of~~
7 ~~this chapter;~~
- 8 ~~(4) Notification of state and local law enforcement about falsified or fraudulent~~
9 ~~information submitted for the purpose of obtaining or renewing a registry~~
10 ~~identification card; or~~
- 11 ~~(5) Notification of the South Dakota Board of Medical and Osteopathic Examiners if~~
12 ~~there is reason to believe that a practitioner provided a written certification and~~
13 ~~the department has reason to believe the practitioner otherwise violated the~~
14 ~~standard of care for evaluating a medical condition.~~

15 **Section 157. That § 34-20G-89 be REPEALED:**

16 ~~Any information kept or maintained by a medical cannabis establishment may only~~
17 ~~identify a cardholder by registry identification number and may not contain names or other~~
18 ~~personal identifying information.~~

19 **Section 158. That § 34-20G-90 be REPEALED:**

20 ~~At the cardholder's request, the department may confirm the cardholder's status~~
21 ~~as a registered qualifying patient or a registered designated caregiver to a third party,~~
22 ~~such as a landlord, school, medical professional, or court.~~

23 **Section 159. That § 34-20G-91 be REPEALED:**

24 ~~Any department hard drive or other data recording media that is no longer in use~~
25 ~~and that contains cardholder information shall be destroyed.~~

26 **Section 160. That § 34-20G-92 be REPEALED:**

27 ~~The Executive Board of the Legislative Research Council shall appoint an oversight~~
28 ~~committee comprised of: one member of the House of Representatives, one member of~~
29 ~~the Senate, one Department of Criminal Investigation agent, one staff member from the~~

1 ~~Office of the Attorney General, two representatives of law enforcement, one~~
2 ~~representative from the department, one practitioner with experience in medical cannabis~~
3 ~~issues, one nurse, one board member or principal officer of a cannabis testing facility, one~~
4 ~~person with experience in policy development or implementation in the field of medical~~
5 ~~cannabis, and three qualifying patients.~~

6 **Section 161. That § 34-20G-93 be REPEALED:**

7 The oversight committee shall meet at least two times per year for the purpose of
8 evaluating and making recommendations to the Legislature and the department
9 regarding:

- 10 (1) ~~The ability of qualifying patients in all areas of the state to obtain timely access to~~
11 ~~high quality medical cannabis;~~
- 12 (2) ~~The effectiveness of the dispensaries and cultivation facilities, individually and~~
13 ~~together, in serving the needs of qualifying patients, including the provision of~~
14 ~~educational and support services by dispensaries, the reasonableness of their~~
15 ~~prices, whether they are generating any complaints or security problems, and the~~
16 ~~sufficiency of the number operating to serve the state's registered qualifying~~
17 ~~patients;~~
- 18 (3) ~~The effectiveness of the cannabis testing facilities, including whether a sufficient~~
19 ~~number are operating;~~
- 20 (4) ~~The sufficiency of the regulatory and security safeguards contained in this chapter~~
21 ~~and adopted by the department to ensure that access to and use of cannabis~~
22 ~~cultivated is provided only to cardholders;~~
- 23 (5) ~~Any recommended additions or revisions to the department regulations or this~~
24 ~~chapter, including relating to security, safe handling, labeling, and nomenclature;~~
25 ~~and~~
- 26 (6) ~~Any research studies regarding health effects of medical cannabis for patients.~~

27 **Section 162. That § 34-20G-94 be REPEALED:**

28 The department shall report annually to the Legislature on the number of
29 applications for registry identification cards received, the number of qualifying patients
30 and designated caregivers approved, the number of registry identification cards revoked,
31 the number of each type of medical cannabis establishment registered, and the expenses
32 incurred and revenues generated from the medical cannabis program. The department

1 ~~may not include identifying information on a qualifying patient, designated caregiver, or~~
2 ~~practitioner in the report.~~

3 **Section 163. That § 34-20G-95 be REPEALED:**

4 ~~The Department of Education and the department shall establish policy to allow~~
5 ~~students who are medical cannabis cardholders to have their medicine administered in~~
6 ~~school in accordance with their physician's recommendation. This policy shall be~~
7 ~~implemented the first day of the new school year following passage of this chapter. The~~
8 ~~departments shall implement substantively identical provisions to Colorado Revised~~
9 ~~Statute 22-1-119.3 as of January 1, 2019.~~

DRAFT