



BILL & AMENDMENT SUMMARY

Medical Cannabidiol Act SF 2360

Status of Bill: House Floor
Committee: Senate (36-12), Public Safety Committee (13-5)
Lead Democrats: Rep. Forbes, Rep. Kressig
Floor Manager: Rep. Klein, Rep. R. Taylor
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Background

The goal behind this bill is to decriminalize the possession of cannabidiol which contains up to a certain amount of THC (tetrahydrocannabinol), which are main components of marijuana, and under Iowa law possession of marijuana is illegal. This decriminalization is achieved by setting up a process involving the Departments of Public Health and Transportation to allow patients with intractable epilepsy or their primary caregivers to apply for and receive an identification card authorizing them to be in possession of this medicine. The bill also makes medical use of cannabidiol an affirmative defense from criminal prosecution, as long as certain procedures are followed, such as obtaining a valid identification card and obtaining the medication out-of-state.

Iowa Code chapter 124.101 (19) defines Marijuana to be “all parts of the plants of the genus Cannabis, whether growing or not; ...including tetrahydrocannabinols.” “Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis as well as synthetic equivalents of the substances contained in the Cannabis plant...” is listed as a hallucinogenic schedule I controlled substance (124.204 (4)(u)).

Bill Summary

The bill goes into the Controlled Substances chapter and adds language stating that it is legal for a person to knowingly or intentionally recommend, possess, use, dispense, deliver, transport, or administer cannabidiol if it does in accordance with the newly created chapter 124D, the medical cannabidiol act.

Senate File 2360 creates a new chapter in the Iowa Code, 124D, and titles it the “Medical Cannabidiol Act.” The bill allows for a patient that has been diagnosed with intractable epilepsy to receive a written recommendation from their neurologist for the medical use of cannabidiol if no other satisfactory alternative treatment options exist for the patient. Intractable epilepsy is defined as “an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.” In the definition of cannabidiol, it states that the plant cannot have a tetrahydrocannabinol (THC) level of more than 3%. The neurologist has no duty to provide this recommendation and all of the following conditions must apply:

1. The patient is a resident of Iowa.
2. The patient has been treated by a neurologist for the previous six months for intractable epilepsy.
3. The neurologist has tried alternative treatment options that have not alleviated the patient’s symptoms.
4. The neurologist determines that the risks of recommending the medical use of cannabidiol are reasonable in light of the potential benefit.
5. The neurologist maintains a patient treatment plan.

In order for a patient to be able to legally use medical cannabidiol, they or their primary caregivers must be authorized by the Department of Public Health (DPH) to obtain a cannabidiol registration card. The legislation states that the DPH will be adopting emergency rules regarding the specifics on how this registration card is obtained, but the bill does lay out some parameters.

A registration card may only be issued to a patient who is at least 18 years of age, and any primary caregivers of any patient. If the patient is under the age of 18 years age, then only the patient's primary caregivers may obtain a registration card (the caregivers must be over 18 years). These registration cards will be issued by the Department of Transportation (DOT) and they will be valid for one year, after which the owner of the card may go back to the DOT for renewal. A patient may have more than one designated caregiver. Language states that registration cards issued by another state, district, or territory of the United States for possession or use of cannabidiol only for intractable epilepsy will be recognized by Iowa.

The DPH is required to maintain a confidential file for each patient that receives a registration card, or for whom a registration card is issued for, as well as each caregiver who receives a card. The DPH is authorized to release the confidential information to employees of both DPH and DOT if they are involved in the issuance of registration cards, and state and local law enforcement employees only when necessary for verification of the registration card.

Affirmative Defense from Criminal Prosecution

Section 7 of the bill states that it is an affirmative and complete defense from prosecution for the unlawful possession of marijuana under Iowa law if the patient or caregiver has a valid registration card, obtained their medicine out of state, and followed the other requirements spelled out in the bill. If a patient or caregiver is charged with a crime and does not have their registration card with them, all charges against the person must be dropped if the person can bring their valid registration card to the clerk of the district court before the initial court date.

Language prohibits an agency of the state or any political subdivision, including any law enforcement agency, to remove or initiate proceedings for removal of a patient under the age of 18 years from a home solely based upon the possession or use of cannabidiol as authorized under this law.

If a person knowingly or intentionally possesses or uses cannabidiol in violation of this law, they are subject to the penalties under current law.

This newly created chapter is repealed on July 1, 2017.

Amendment Summary

H-8333 by Public Safety Committee -

Strikes the language regarding the validity and recognition of identification cards issued from another jurisdiction and replaces it with language that requires the DPH to adopt rules. The rules must include but not be limited to 1) applications for new and renewal of registration cards, and 2) establish a procedure where an out-of-state patient with intractable epilepsy that has a written recommendation from a treating neurologist for that patient to possess or use cannabidiol in their jurisdiction must apply for and may be issued a temporary Iowa cannabidiol registration card.

Adds language regarding the affirmative defense to state that the patient or the primary care giver cannot possess more than 32 ounces of cannabidiol oil per patient.

Requires the University of Iowa School of Medicine to establish and conduct a clinical research study to determine the outcomes and results of cannabidiol on patients diagnosed with intractable epilepsy. The University is required to submit its findings and recommendations to the DPH and the General Assembly by July 1, 2017.

H-8344 by Rep. Pettengill to H-8333 - Strikes the language requiring the DPH to adopt administrative rules, as well as language making the adoption of administrative rules effective upon enactment and replaces it with language that requires DPH, in consultation with the DOT, to adopt rules to administer this newly created chapter. States that the rules must include but are not limited to rules establishing the manner in which the DPH must consider applications for new and renewal of registration cards.

H-8388 by Rep. Klein to H-8333 - Strikes the entire bill and replaces with mostly the same language in SF 2360, with the following differences:

- Definition of neurologist states that he/she must be licensed within the state of Iowa. The Senate language allows for the neurologist to be licensed in another state.
- Strikes language that defines a primary caregiver to be an employee of a hospice program, or an individual providing home and community based-services.
- New language regarding the treatment by a neurologist for at least six months to state that this treatment may be provided by an out-of-state licensed neurologist.
- Requires the patient or caregiver, when applying for a registration card, to request that the neurologist send the recommendation directly to the DPH.
- Strikes language regarding the validity of a registration card issued by another jurisdiction.
- Strikes language regarding the adoption of administrative rules, including the effective upon enactment language, and replaces it with language that simply requires the DPH to adopt rules administer this new chapter including but not limited to the consideration of the applications for new and renewal registration cards.
- Adds language regarding the affirmative defense to state that the patient or the primary care giver cannot possess more than 32 ounces of cannabidiol oil per patient.
- Adds language requiring the University of Iowa Carver College of Medicine and College of Pharmacy to submit, on or before July 1 of each year, to the DPH and the general assembly a report detailing the scientific literature, studies, and clinical trials regarding the use of cannabidiol on patients diagnosed with intractable epilepsy.

H-8337 by Rep. L. Miller - Strikes everything after the enacting clause and replaces it with language that creates an affirmative defense for a patient and caregiver from the prosecution of unlawful possession of marijuana if a neurologist has recommended cannabidiol for therapeutic relief from intractable epilepsy. The neurologist must have an Iowa license and be board-certified in neurology and have a “bona fide physician-patient relationship.” That relationship is defined to be “where the neurologist has ongoing responsibility for the assessment, care, and treatment of a patient’s intractable epilepsy.”

H-8343 by Rep. Rogers - Strikes everything after the enacting clause and replaces it with language that creates an affirmative defense for a patient and caregiver from prosecution of unlawful possession of marijuana if the patient has been diagnosed with intractable epilepsy. The primary caregiver is required to be at least 18 years of age, designated by the patient’s neurologist or a person having custody of the patient as being necessary to take responsibility for managing the well-being of the patient with respect to the medical use of cannabidiol. A patient may have more than one caregiver, and can include an employee of a hospice program or an individual providing home and community-based services, including a home health agency.

H-8360 by Rep. L. Miller - Strikes everything after the enacting clause and replaces it with language that requires Iowa State University of Science and Technology to establish and conduct an industrial hemp research project. This research project must include research to determine the appropriate percentage of THC by weight that is considered the threshold for cannabis to have a psychotropic effect or an intoxicating potential.

H-8334 by Rep. Baltimore - Goes to the definition of cannabidiol and changes the THC level from not more than 3% to .03%.

H-8345 by Rep. L. Miller - Adds “debilitating disease” to the list of definitions and defines it to be intractable epilepsy or glaucoma. Strikes the words “intractable epilepsy” throughout the bill and replaces it with “debilitating disease.”

H-8350 by Rep. L. Miller to H-8345 - Adds uterine cancer to the definition of debilitating disease.

H-8351 by Rep. L. Miller to H-8345 - Adds kidney cancer to the definition of debilitating disease.

H-8352 by Rep. L. Miller to H-8345 - Adds bladder cancer to the definition of debilitating disease.

H-8353 by Rep. L. Miller to H-8345 - Adds testicular cancer to the definition of debilitating disease.

H-8354 by Rep. L. Miller to H-8345 - Adds brain cancer to the definition of debilitating disease.

H-8355 by Rep. L. Miller to H-8345 - Adds melanoma to the definition of debilitating disease.

H-8356 by Rep. L. Miller to H-8345 - Adds lupus to the definition of debilitating disease.

H-8357 by Rep. L. Miller to H-8345 - Adds Crohn’s disease to the definition of debilitating disease.

H-8358 by Rep. L. Miller to H-8345 - Adds multiple sclerosis to the definition of debilitating disease.

H-8359 by Rep. L. Miller to H-8345 - Adds acquired immune deficiency syndrome to the definition of debilitating disease.

H-8335 by Rep. Baltimore - Goes to the definition of neurologist and strikes the language that would allow for the neurologist to be board-certified and licensed in another state.

H-8346 by Rep. L. Miller - Changes language regarding the information needed for a patient to receive a registration card to require the patient to make the request of their neurologist to submit a written recommendation to the DPH that the patient may benefit from the medical use of cannabidiol. Language in the bill simply states that the patient must provide the DPH with the written recommendation. This same language change is made for the issuance of a card for a caregiver.

H-8340 by Rep. Rogers - Adds language regarding the issuance of a registration card and states that the DPH must revoke a registration card upon proof that the person who was issued the card misused medical cannabidiol in violation of the newly created chapter, or is arrested for or convicted of a violation of chapter 124 (Controlled Substances).

H-8341 by Rep. Rogers - Adds language regarding the issuance of registration cards to state that upon renewal the DPH must require the patient or primary caregiver to provide proof of the place that the cannabidiol was previously purchased.

H-8347 by Rep. L. Miller - Adds language to prohibit the issuance of a registration card to a person who has been previously convicted of a controlled substance-related violation of chapter 124 (Controlled Substances). A violation means a conviction in this state or similar statutes in another state, or in a federal military, tribal, or foreign court.

H-8338 by Rep. L. Miller - Requires the DPH to maintain a database of qualified neurologists who prescribe cannabidiol to patients under 18 years of age, which includes each neurologist’s qualifications.

H-8348 by Rep. L. Miller - Strikes language in the affirmative defense to only allow the recommendation from the neurologist to be transdermal administration of the cannabidiol. The recommendation from the neurologist must also specify the exact portion of the patient’s body on which the cannabidiol should be administered. In the bill, language says that the recommendation can be for oral or transdermal administration.

H-8361 by Rep. Brandenburg - Adds language regarding the affirmative defense to state that the recommendation for oral or transdermal administration must be done by a physician licensed under chapter 148.

H-8339 by Rep. L. Miller - Adds language to the penalties section to state that a person who doesn't hold a valid registration card and possess or uses cannabidiol, commits a class C felony.

H-8336 by Rep. Baltimore - Adds language to state that the newly created chapter cannot be implemented until the federal government or Congress reclassifies cannabidiol from a schedule I controlled substance to a schedule II controlled substance.

H-8342 by Rep. Rogers - Strikes the language which requires the DPH to adopt rules effective upon enactment and inserts language stating that this act takes effect on July 1, 2015.