

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 2136

(SENATE AUTHORS: WIKLUND)

DATE
02/27/2023

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Introduction and first reading
Referred to Health and Human Services

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to health; modifying provisions for Tribal medical cannabis program;
1.3 amending Minnesota Statutes 2022, sections 152.22, by adding subdivisions;
1.4 152.29, by adding a subdivision; 152.30; 152.32; 152.33, subdivision 1; proposing
1.5 coding for new law in Minnesota Statutes, chapter 152.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 152.22, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 5d. **Indian lands.** "Indian lands" means all lands within the limits of any Indian
1.10 reservation within the boundaries of Minnesota and any lands within the boundaries of
1.11 Minnesota title which are either held in trust by the United States or over which an Indian
1.12 Tribe exercises governmental power.

1.13 Sec. 2. Minnesota Statutes 2022, section 152.22, is amended by adding a subdivision to
1.14 read:

1.15 Subd. 15. **Tribal medical cannabis board.** "Tribal medical cannabis board" means an
1.16 agency established by each federally recognized Tribal government and duly authorized by
1.17 each Tribe's governing body to perform regulatory oversight and monitor compliance with
1.18 a Tribal medical cannabis program and applicable regulations.

1.19 Sec. 3. Minnesota Statutes 2022, section 152.22, is amended by adding a subdivision to
1.20 read:

1.21 Subd. 16. **Tribal medical cannabis program.** "Tribal medical cannabis program" means
1.22 a program established by a federally recognized Tribal government within the boundaries

2.1 of Minnesota regarding the commercial production, processing, sale or distribution, and
2.2 possession of medical cannabis and medical cannabis products.

2.3 Sec. 4. Minnesota Statutes 2022, section 152.22, is amended by adding a subdivision to
2.4 read:

2.5 Subd. 17. **Tribal medical cannabis program patient.** "Tribal medical cannabis program
2.6 patient" means a person who possesses a valid registration verification card or equivalent
2.7 document that is issued under the laws or regulations of a Tribal Nation within the boundaries
2.8 of Minnesota and that verifies that the person is enrolled in or authorized to participate in
2.9 that Tribal Nation's Tribal medical cannabis program.

2.10 Sec. 5. Minnesota Statutes 2022, section 152.29, is amended by adding a subdivision to
2.11 read:

2.12 Subd. 5. **Distribution to a Tribal medical cannabis program patient.** (a) A
2.13 manufacturer may distribute medical cannabis in accordance with subdivisions 1 to 4 to a
2.14 Tribal medical cannabis program patient.

2.15 (b) Prior to distribution, the Tribal medical cannabis program patient must provide to
2.16 the manufacturer:

2.17 (1) a valid medical cannabis registry verification card or equivalent document issued by
2.18 a Tribal medical cannabis program that indicates that the Tribal medical cannabis program
2.19 patient is authorized to use medical cannabis on Indian lands over which the Tribe has
2.20 jurisdiction; and

2.21 (2) a valid photographic identification card issued by the Tribal medical cannabis
2.22 program, valid driver's license, or valid state identification card.

2.23 (c) A manufacturer shall distribute medical cannabis to a Tribal medical cannabis program
2.24 patient only in a form allowed under section 152.22, subdivision 6.

2.25 Sec. 6. **[152.291] TRIBAL MEDICAL CANNABIS PROGRAM; MANUFACTURERS.**

2.26 Subdivision 1. **Manufacturers.** Notwithstanding the requirements and limitations in
2.27 section 152.29, subdivision 1, paragraph (a), a Tribal medical cannabis program operated
2.28 by a federally recognized Indian Tribe located in Minnesota shall be recognized as a medical
2.29 cannabis manufacturer.

3.1 Subd. 2. **Manufacturer transportation.** (a) A manufacturer registered with a Tribal
3.2 medical cannabis program may transport medical cannabis to testing laboratories in the
3.3 state and to other Indian lands.

3.4 (b) A manufacturer registered with a Tribal medical cannabis program must staff a motor
3.5 vehicle used to transport medical cannabis with at least two employees of the manufacturer.
3.6 Each employee in the transport vehicle must carry identification specifying that the employee
3.7 is an employee of the manufacturer and one employee in the transport vehicle must carry
3.8 a detailed transportation manifest that includes the place and time of departure, the address
3.9 of the destination, and a description and count of the medical cannabis being transported.

3.10 Sec. 7. Minnesota Statutes 2022, section 152.30, is amended to read:

3.11 **152.30 PATIENT DUTIES.**

3.12 (a) A patient shall apply to the commissioner for enrollment in the registry program by
3.13 submitting an application as required in section 152.27 and an annual registration fee as
3.14 determined under section 152.35.

3.15 (b) As a condition of continued enrollment, patients shall agree to:

3.16 (1) continue to receive regularly scheduled treatment for their qualifying medical
3.17 condition from their health care practitioner; and

3.18 (2) report changes in their qualifying medical condition to their health care practitioner.

3.19 (c) A patient shall only receive medical cannabis from a registered manufacturer or
3.20 Tribal medical cannabis program but is not required to receive medical cannabis products
3.21 from only a registered manufacturer or Tribal medical cannabis program.

3.22 Sec. 8. Minnesota Statutes 2022, section 152.32, is amended to read:

3.23 **152.32 PROTECTIONS FOR REGISTRY PROGRAM PARTICIPATION.**

3.24 Subdivision 1. **Presumption.** (a) There is a presumption that a patient enrolled in the
3.25 registry program under sections 152.22 to 152.37 or a Tribal medical cannabis program
3.26 patient enrolled in a Tribal medical cannabis program is engaged in the authorized use of
3.27 medical cannabis.

3.28 (b) The presumption may be rebutted:

3.29 (1) by evidence that a patient's conduct related to use of medical cannabis was not for
3.30 the purpose of treating or alleviating the patient's qualifying medical condition or symptoms
3.31 associated with the patient's qualifying medical condition; or

4.1 (2) by evidence that a Tribal medical cannabis program patient's use of medical cannabis
4.2 was not for a purpose authorized by the Tribal medical cannabis program.

4.3 Subd. 2. **Criminal and civil protections.** (a) Subject to section 152.23, the following
4.4 clauses are not violations under this chapter:

4.5 (1) use or possession of medical cannabis or medical cannabis products by a patient
4.6 enrolled in the registry program, or possession by a registered designated caregiver or the
4.7 parent, legal guardian, or spouse of a patient if the parent, legal guardian, or spouse is listed
4.8 on the registry verification; or use or possession of medical cannabis or medical cannabis
4.9 products by a Tribal medical cannabis program patient;

4.10 (2) possession, dosage determination, or sale of medical cannabis or medical cannabis
4.11 products by a medical cannabis manufacturer, employees of a manufacturer, a laboratory
4.12 conducting testing on medical cannabis, or employees of the laboratory; and

4.13 (3) possession of medical cannabis or medical cannabis products by any person while
4.14 carrying out the duties required under sections 152.22 to 152.37.

4.15 (b) Medical cannabis obtained and distributed pursuant to sections 152.22 to 152.37 and
4.16 associated property is not subject to forfeiture under sections 609.531 to 609.5316.

4.17 (c) The commissioner, members of a Tribal medical cannabis board, the commissioner's
4.18 or Tribal medical cannabis board's staff, the commissioner's Tribal medical cannabis
4.19 board's agents or contractors, and any health care practitioner are not subject to any civil or
4.20 disciplinary penalties by the Board of Medical Practice, the Board of Nursing, or by any
4.21 business, occupational, or professional licensing board or entity, solely for the participation
4.22 in the registry program under sections 152.22 to 152.37 or in a Tribal medical cannabis
4.23 program. A pharmacist licensed under chapter 151 is not subject to any civil or disciplinary
4.24 penalties by the Board of Pharmacy when acting in accordance with the provisions of
4.25 sections 152.22 to 152.37. Nothing in this section affects a professional licensing board
4.26 from taking action in response to violations of any other section of law.

4.27 (d) Notwithstanding any law to the contrary, the commissioner, the governor of
4.28 Minnesota, or an employee of any state agency may not be held civilly or criminally liable
4.29 for any injury, loss of property, personal injury, or death caused by any act or omission
4.30 while acting within the scope of office or employment under sections 152.22 to 152.37.

4.31 (e) Federal, state, and local law enforcement authorities are prohibited from accessing
4.32 the patient registry under sections 152.22 to 152.37 except when acting pursuant to a valid
4.33 search warrant.

5.1 (f) Notwithstanding any law to the contrary, neither the commissioner nor a public
5.2 employee may release data or information about an individual contained in any report,
5.3 document, or registry created under sections 152.22 to 152.37 or any information obtained
5.4 about a patient participating in the program, except as provided in sections 152.22 to 152.37.

5.5 (g) No information contained in a report, document, or registry or obtained from a patient
5.6 or a Tribal medical cannabis program patient under sections 152.22 to 152.37 may be
5.7 admitted as evidence in a criminal proceeding unless independently obtained or in connection
5.8 with a proceeding involving a violation of sections 152.22 to 152.37.

5.9 (h) Notwithstanding section 13.09, any person who violates paragraph (e) or (f) is guilty
5.10 of a gross misdemeanor.

5.11 (i) An attorney may not be subject to disciplinary action by the Minnesota Supreme
5.12 Court, a Tribal Court, or professional responsibility board for providing legal assistance to
5.13 prospective or registered manufacturers or others related to activity that is no longer subject
5.14 to criminal penalties under state law pursuant to sections 152.22 to 152.37, or for providing
5.15 legal assistance to a Tribal medical cannabis program.

5.16 (j) Possession of a registry verification or application for enrollment in the program by
5.17 a person entitled to possess or apply for enrollment in the registry program or possession
5.18 of a verification or equivalent issued by a Tribal medical cannabis program by a person
5.19 entitled to possess such verification, does not constitute probable cause or reasonable
5.20 suspicion, nor shall it be used to support a search of the person or property of the person
5.21 possessing or applying for the registry verification or equivalent, or otherwise subject the
5.22 person or property of the person to inspection by any state governmental agency.

5.23 Subd. 3. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll or
5.24 lease to and may not otherwise penalize a person solely for the person's status as a patient
5.25 enrolled in the registry program under sections 152.22 to 152.37 or for the person's status
5.26 as a Tribal medical cannabis program patient enrolled in a Tribal medical cannabis program,
5.27 unless failing to do so would violate federal law or regulations or cause the school or landlord
5.28 to lose a monetary or licensing-related benefit under federal law or regulations.

5.29 (b) For the purposes of medical care, including organ transplants, a registry program
5.30 enrollee's use of medical cannabis under sections 152.22 to 152.37 is considered the
5.31 equivalent of the authorized use of any other medication used at the discretion of a physician,
5.32 advanced practice registered nurse, or physician assistant and does not constitute the use of
5.33 an illicit substance or otherwise disqualify a patient from needed medical care.

6.1 (c) Unless a failure to do so would violate federal law or regulations or cause an employer
 6.2 to lose a monetary or licensing-related benefit under federal law or regulations, an employer
 6.3 may not discriminate against a person in hiring, termination, or any term or condition of
 6.4 employment, or otherwise penalize a person, if the discrimination is based upon ~~either~~ any
 6.5 of the following:

6.6 (1) the person's status as a patient enrolled in the registry program under sections 152.22
 6.7 to 152.37; ~~or~~

6.8 (2) the person's status as a Tribal medical cannabis program patient enrolled in a Tribal
 6.9 medical cannabis program; or

6.10 ~~(2)~~ (3) a patient's positive drug test for cannabis components or metabolites, unless the
 6.11 patient used, possessed, or was impaired by medical cannabis on the premises of the place
 6.12 of employment or during the hours of employment.

6.13 (d) An employee who is required to undergo employer drug testing pursuant to section
 6.14 181.953 may present verification of enrollment in the patient registry or of enrollment in a
 6.15 Tribal medical cannabis program as part of the employee's explanation under section 181.953,
 6.16 subdivision 6.

6.17 (e) A person shall not be denied custody of a minor child or visitation rights or parenting
 6.18 time with a minor child solely based on the person's status as a patient enrolled in the registry
 6.19 program under sections 152.22 to 152.37 or on the person's status as a Tribal medical
 6.20 cannabis program patient enrolled in a Tribal medical cannabis program. There shall be no
 6.21 presumption of neglect or child endangerment for conduct allowed under sections 152.22
 6.22 to 152.37 or under a Tribal medical cannabis program, unless the person's behavior is such
 6.23 that it creates an unreasonable danger to the safety of the minor as established by clear and
 6.24 convincing evidence.

6.25 Sec. 9. Minnesota Statutes 2022, section 152.33, subdivision 1, is amended to read:

6.26 Subdivision 1. **Intentional diversion; criminal penalty.** In addition to any other
 6.27 applicable penalty in law, a manufacturer or an agent of a manufacturer who intentionally
 6.28 transfers medical cannabis to a person other than another registered manufacturer, a patient,
 6.29 a registered designated caregiver, a Tribal medical cannabis program patient, or, if listed
 6.30 on the registry verification, a parent, legal guardian, or spouse of a patient is guilty of a
 6.31 felony punishable by imprisonment for not more than two years or by payment of a fine of
 6.32 not more than \$3,000, or both. A person convicted under this subdivision may not continue

- 7.1 to be affiliated with the manufacturer and is disqualified from further participation under
- 7.2 sections 152.22 to 152.37.