

HOUSE BILL NO. 1391

Introduced by

Representatives Dobervich, P. Anderson, M. Nelson, M. Ruby, Schneider, Vetter

Senators Bakke, Meyer

1 A BILL for an Act to create and enact section 19-24.1-24.1 and a new subsection to section
2 19-24.1-36 of the North Dakota Century Code, relating to regulating edible medical marijuana
3 products; to amend and reenact section 19-24.1-01 of the North Dakota Century Code, relating
4 to definitions relating to medical marijuana products; and to declare an emergency.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 19-24.1-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **19-24.1-01. Definitions.**

9 As used in this chapter, unless the context indicates otherwise:

- 10 1. "Advanced practice registered nurse" means an advanced practice registered nurse
11 defined under section 43-12.1-02.
- 12 2. "Allowable amount of usable marijuana" means the amount of usable marijuana a
13 registered qualifying patient or registered designated caregiver may purchase in a
14 thirty-day period under this chapter.
- 15 a. Except as provided under subdivision b:
- 16 (1) During a thirty-day period, a registered qualifying patient may not purchase
17 or have purchased by a registered designated caregiver more than two and
18 one-half ounces [70.87 grams] of dried leaves or flowers of the plant of
19 genus cannabis in a combustible delivery form.
- 20 (2) At any time a registered qualifying patient, or a registered designated
21 caregiver on behalf of a registered qualifying patient, may not possess more
22 than three ounces [85.05 grams] of dried leaves or flowers of the plant of
23 the genus cannabis in a combustible delivery form.

- 1 b. Notwithstanding subdivision a, if a registered qualifying patient has a registry
2 identification card authorizing an enhanced allowable amount:
- 3 (1) During a thirty-day period a registered qualifying patient may not purchase
4 or have purchased by a registered designated caregiver more than six
5 ounces [170.01 grams] of dried leaves or flowers of the plant of genus
6 cannabis in a combustible delivery form.
- 7 (2) At any time a registered qualifying patient, or a registered designated
8 caregiver on behalf of a registered qualifying patient, may not possess more
9 than seven and one-half ounces [212.62 grams] of dried leaves or flowers of
10 the plant of the genus cannabis in a combustible delivery form.
- 11 c. A registered qualifying patient may not purchase or have purchased by a
12 registered designated caregiver more than the maximum concentration or
13 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum
14 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period
15 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
16 total of both, is four thousand milligrams. At any given time, a registered
17 qualifying patient, or a registered designated caregiver on behalf of a registered
18 qualifying patient, may not possess more than five hundred milligrams of a
19 cannabinoid edible product.
- 20 3. "Bona fide provider-patient relationship" means a treatment or counseling relationship
21 between a health care provider and patient in which all the following are present:
- 22 a. The health care provider has reviewed the patient's relevant medical records and
23 completed a full assessment of the patient's medical history and current medical
24 condition, including a relevant, in-person, medical evaluation of the patient.
- 25 b. The health care provider has created and maintained records of the patient's
26 condition in accordance with medically accepted standards.
- 27 c. The patient is under the health care provider's continued care for the debilitating
28 medical condition that qualifies the patient for the medical use of marijuana.
- 29 d. The health care provider has a reasonable expectation that provider will continue
30 to provide followup care to the patient to monitor the medical use of marijuana as
31 a treatment of the patient's debilitating medical condition.

- 1 e. The relationship is not for the sole purpose of providing written certification for the
2 medical use of marijuana.
- 3 4. "Cannabinoid" means a chemical compound that is one of the active constituents of
4 marijuana.
- 5 5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
6 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
7 intended for consumption. The maximum concentration ~~of~~ amount of
8 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
9 milligrams.
- 10 6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating
11 cannabinoids from marijuana by a mechanical, chemical, or other process.
- 12 7. "Cannabinoid edible product" means a ~~food or potable liquid~~ soft or hard lozenge in a
13 geometric square shape into which a cannabinoid concentrate or the dried leaves or
14 flowers of the plant of the genus cannabis is incorporated.
- 15 a. The maximum concentration or amount of tetrahydrocannabinol permitted in a
16 serving of a cannabinoid edible product is ten milligrams.
- 17 b. The term does not include a soft or hard lozenge in a geometric square shape
18 into which a cannabinoid concentrate or the dried leaves or flowers of the plant of
19 the genus cannabis is incorporated if the form, packaging, or labeling is target
20 marketed to minors.
- 21 8. "Cannabinoid solution" means a solution consisting of a mixture created from
22 cannabinoid concentrate and other ingredients.
- 23 9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin
24 or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a
25 cannabinoid topical is six percent.
- 26 10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin
27 which contains a cannabinoid product or cannabinoid concentrate for absorption into
28 the bloodstream. The maximum concentration or amount of tetrahydrocannabinol
29 permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.
- 30 11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center
31 agent who has been issued and possesses a valid registry identification card.

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- 1 12. "Compassion center" means a manufacturing facility or dispensary.
- 2 13. "Compassion center agent" means a principal officer, board member, member,
3 manager, governor, employee, volunteer, or agent of a compassion center.
- 4 14. "Contaminated" means made impure or inferior by extraneous substances.
- 5 15. "Debilitating medical condition" means one of the following:
 - 6 a. Cancer;
 - 7 b. Positive status for human immunodeficiency virus;
 - 8 c. Acquired immune deficiency syndrome;
 - 9 d. Decompensated cirrhosis caused by hepatitis C;
 - 10 e. Amyotrophic lateral sclerosis;
 - 11 f. Posttraumatic stress disorder;
 - 12 g. Agitation of Alzheimer's disease or related dementia;
 - 13 h. Crohn's disease;
 - 14 i. Fibromyalgia;
 - 15 j. Spinal stenosis or chronic back pain, including neuropathy or damage to the
16 nervous tissue of the spinal cord with objective neurological indication of
17 intractable spasticity;
 - 18 k. Glaucoma;
 - 19 l. Epilepsy;
 - 20 m. Anorexia nervosa;
 - 21 n. Bulimia nervosa;
 - 22 o. Anxiety disorder;
 - 23 p. Tourette syndrome;
 - 24 q. Ehlers-Danlos syndrome;
 - 25 r. Endometriosis;
 - 26 s. Interstitial cystitis;
 - 27 t. Neuropathy;
 - 28 u. Migraine;
 - 29 v. Rheumatoid arthritis;
 - 30 w. Autism spectrum disorder;
 - 31 x. A brain injury;

- 1 y. A terminal illness; or
- 2 z. A chronic or debilitating disease or medical condition or treatment for such
- 3 disease or medical condition that produces one or more of the following:
- 4 (1) Cachexia or wasting syndrome;
- 5 (2) Severe debilitating pain that has not responded to previously prescribed
- 6 medication or surgical measures for more than three months or for which
- 7 other treatment options produced serious side effects;
- 8 (3) Intractable nausea;
- 9 (4) Seizures; or
- 10 (5) Severe and persistent muscle spasms, including those characteristic of
- 11 multiple sclerosis.
- 12 16. "Department" means the state department of health.
- 13 17. "Designated caregiver" means an individual who agrees to manage the well-being of a
- 14 registered qualifying patient with respect to the qualifying patient's medical use of
- 15 marijuana.
- 16 18. "Dispensary" means an entity registered by the department as a compassion center
- 17 authorized to dispense usable marijuana to a registered qualifying patient and a
- 18 registered designated caregiver.
- 19 19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
- 20 enclosed area equipped with locks or other security devices that permit access limited
- 21 to individuals authorized under this chapter or rules adopted under this chapter.
- 22 20. "Health care provider" means a physician, a physician assistant, or an advanced
- 23 practice registered nurse.
- 24 21. "Manufacturing facility" means an entity registered by the department as a compassion
- 25 center authorized to produce and process and to sell usable marijuana to a
- 26 dispensary.
- 27 22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;
- 28 the resin extracted from any part of the plant; and every compound, manufacture, salt,
- 29 derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin
- 30 extracted from any part of the plant. The term marijuana does not include hemp as
- 31 defined in section 4.1-18.1-01.

- 1 23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
2 of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid
3 product or a cannabinoid concentrate.
- 4 24. "Medical cannabinoid product" means a product intended for human consumption or
5 use which contains cannabinoids.
- 6 a. Medical cannabinoid products are limited to the following forms:
- 7 (1) Cannabinoid solution;
- 8 (2) Cannabinoid capsule;
- 9 (3) Cannabinoid transdermal patch; ~~and~~
- 10 (4) Cannabinoid topical; and
- 11 (5) Cannabinoid edible product.
- 12 b. "Medical cannabinoid product" does not include:
- 13 (1) ~~A cannabinoid edible product;~~
- 14 ~~(2)~~ A cannabinoid concentrate by itself; or
- 15 ~~(3)~~(2) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 16 25. "Medical marijuana product" means a cannabinoid concentrate or a medical
17 cannabinoid product.
- 18 26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable
19 marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of
20 the genus cannabis, including dead plants and all unused plant parts and roots.
- 21 27. "Medical use of marijuana" means the acquisition, use, and possession of usable
22 marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
- 23 28. "Minor" means an individual under the age of nineteen.
- 24 29. "North Dakota identification" means a North Dakota driver's license or comparable
25 state of North Dakota or federal issued photo identification card verifying North Dakota
26 residence.
- 27 30. "Pediatric medical marijuana" means a medical marijuana product containing
28 cannabidiol which may not contain a maximum concentration or amount of
29 tetrahydrocannabinol of more than six percent.
- 30 31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in
31 the state of North Dakota.

- 1 32. "Physician assistant" means an individual licensed under chapter 43-17 to practice as
2 a physician assistant in the state.
- 3 33. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for
4 posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental
5 Disorders", American psychiatric association, fifth edition, text revision (2013).
- 6 34. "Processing" or "process" means the compounding or conversion of marijuana into a
7 medical marijuana product.
- 8 35. "Producing", "produce", or "production" mean the planting, cultivating, growing,
9 trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves
10 or flowers of the plant of the genus cannabis.
- 11 36. "Qualifying patient" means an individual who has been diagnosed by a health care
12 provider as having a debilitating medical condition.
- 13 37. "Registry identification card" means a document issued by the department which
14 identifies an individual as a registered qualifying patient, registered designated
15 caregiver, or registered compassion center agent.
- 16 38. "Terminal illness" means a disease, illness, or condition of a patient:
17 a. For which there is not a reasonable medical expectation of recovery;
18 b. Which as a medical probability, will result in the death of the patient, regardless of
19 the use or discontinuance of medical treatment implemented for the purpose of
20 sustaining life or the life processes; and
21 c. As a result of which, the patient's health care provider would not be surprised if
22 death were to occur within six months.
- 23 39. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
24 of the plant of the genus cannabis in a combustible delivery form. ~~However, the term~~
25 ~~does not include a cannabinoid edible product.~~ In the case of a registered qualifying
26 patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.
- 27 40. "Verification system" means the system maintained by the department under section
28 19-24.1-31 for verification of registry identification cards.
- 29 41. "Written certification" means a form established by the department which is executed,
30 dated, and signed by a health care provider within ninety calendar days of the date of
31 application, stating the patient has a debilitating medical condition. A health care

1 provider may authorize an enhanced amount of dried leaves or flowers of the plant of
2 the genus cannabis in a combustible delivery form to treat or alleviate the patient's
3 debilitating medical condition of cancer. A written certification may not be made except
4 in the course of a bona fide provider-patient relationship.

5 **SECTION 2.** Section 19-24.1-24.1 of the North Dakota Century Code is created and
6 enacted as follows:

7 **19-24.1-24.1. Compassion centers - Cannabinoid edible products.**

- 8 1. A manufacturing facility may not manufacture a cannabinoid edible product unless the
9 manufacturing facility has received the prior approval of the department.
- 10 2. A dispensary may not possess, market, or sell a cannabinoid edible product unless the
11 dispensary has received the prior approval of the department.
- 12 3. The department may not approve the manufacturing, possession, marketing, or sale of
13 a cannabinoid edible product unless the department has reviewed and approved the
14 form, manufacturing, packaging, labeling, and marketing of the cannabinoid edible
15 product.
 - 16 a. Manufacturing of a cannabinoid edible product must take place in a department-
17 licensed commercial kitchen that is inspected annually by the department.
 - 18 b. Packaging of a cannabinoid edible product must be resealable, must be child
19 resistant, and may not be transparent. The maximum concentration or amount of
20 tetrahydrocannabinol permitted in a package is one hundred milligrams.
 - 21 c. Labeling of a cannabinoid edible product must be in black arial font which
22 provides the name of the product, manufacturer's information, ingredient list,
23 milligrams of tetrahydrocannabinol per serving, and number of servings per
24 package. The labeling may not include an image other than text.
 - 25 d. Marketing may not target market to minors.

26 **SECTION 3.** A new subsection to section 19-24.1-36 of the North Dakota Century Code is
27 created and enacted as follows:

28 The health council shall adopt rules to regulate the form, manufacturing, packaging,
29 labeling, and marketing of a cannabinoid edible product. The rules must prohibit the
30 marketing of a cannabinoid edible product to a minor.

31 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.