

HOUSE BILL NO. 1364

Introduced by

Representatives Dobervich, Becker, Blum, Boschee, Eidson, Kading, Mock, Vetter

Senators Bakke, Heckaman, Piepkorn

1 A BILL for an Act to create and enact a new subsection to section 19-24.1-36 of the North
2 Dakota Century Code, relating to health council rules regulating edible medical marijuana
3 products; to amend and reenact section 19-24.1-01 of the North Dakota Century Code, relating
4 to edible 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. During a thirty-day period, a registered qualifying patient may not purchase or
16 have purchased by a registered designated caregiver more than two and one-half
17 ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in
18 a combustible delivery form. At any time a registered qualifying patient, or a
19 registered designated caregiver on behalf of a registered qualifying patient, may
20 not possess more than three ounces [85.05 grams] of dried leaves or flowers of
21 the plant of the genus cannabis in a combustible delivery form.
- 22 b. A registered qualifying patient may not purchase or have purchased by a
23 registered designated caregiver more than the maximum concentration or
24 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum

1 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period
2 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
3 total of both, is two thousand milligrams. At any given time a registered qualifying
4 patient, or a registered designated caregiver on behalf of a registered qualifying
5 patient, may not possess more than fifty milligrams of a cannabinoid edible
6 product.

- 7 3. "Bona fide provider-patient relationship" means a treatment or counseling relationship
8 between a health care provider and patient in which all the following are present:
- 9 a. The health care provider has reviewed the patient's relevant medical records and
10 completed a full assessment of the patient's medical history and current medical
11 condition, including a relevant, in-person, medical evaluation of the patient.
 - 12 b. The health care provider has created and maintained records of the patient's
13 condition in accordance with medically accepted standards.
 - 14 c. The patient is under the health care provider's continued care for the debilitating
15 medical condition that qualifies the patient for the medical use of marijuana.
 - 16 d. The health care provider has a reasonable expectation that provider will continue
17 to provide followup care to the patient to monitor the medical use of marijuana as
18 a treatment of the patient's debilitating medical condition.
 - 19 e. The relationship is not for the sole purpose of providing written certification for the
20 medical use of marijuana.
- 21 4. "Cannabinoid" means a chemical compound that is one of the active constituents of
22 marijuana.
- 23 5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
24 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
25 intended for consumption. The maximum concentration ~~of~~ or amount of
26 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
27 milligrams.
- 28 6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating
29 cannabinoids from marijuana by a mechanical, chemical, or other process.

- 1 7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid
2 concentrate or the dried leaves or flowers of the plant of the genus cannabis is
3 incorporated.
- 4 a. The maximum concentration or amount of tetrahydrocannabinol permitted in a
5 serving of a cannabinoid edible product is five milligrams. Regardless of the
6 concentration or amount of tetrahydrocannabinol in a serving of a cannabinoid
7 edible product, the maximum number of servings in a package may not exceed
8 ten.
- 9 b. The term does not include a food or potable liquid into which a cannabinoid
10 concentrate or the dried leaves or flowers of the plant of the genus cannabis is
11 incorporated if:
- 12 (1) The food or liquid is in a ~~fruit, animal, or cartoon character shape or image-~~
13 ~~or in a shape or image~~form used to target market to minors; or
- 14 (2) The food or liquid packaging includes an image ~~of fruit, an animal, or a~~
15 ~~cartoon character or includes an image~~ used to target market to minors.
- 16 8. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and
17 other ingredients intended for consumption.
- 18 9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin
19 or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a
20 cannabinoid topical is six percent.
- 21 10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin
22 which contains a cannabinoid product or cannabinoid concentrate for absorption into
23 the bloodstream. The maximum concentration or amount of tetrahydrocannabinol
24 permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.
- 25 11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center
26 agent who has been issued and possesses a valid registry identification card.
- 27 12. "Compassion center" means a manufacturing facility or dispensary.
- 28 13. "Compassion center agent" means a principal officer, board member, member,
29 manager, governor, employee, volunteer, or agent of a compassion center.
- 30 14. "Contaminated" means made impure or inferior by extraneous substances.
- 31 15. "Debilitating medical condition" means one of the following:

- 1 a. Cancer;
- 2 b. Positive status for human immunodeficiency virus;
- 3 c. Acquired immune deficiency syndrome;
- 4 d. Decompensated cirrhosis caused by hepatitis C;
- 5 e. Amyotrophic lateral sclerosis;
- 6 f. Posttraumatic stress disorder;
- 7 g. Agitation of Alzheimer's disease or related dementia;
- 8 h. Crohn's disease;
- 9 i. Fibromyalgia;
- 10 j. Spinal stenosis or chronic back pain, including neuropathy or damage to the
- 11 nervous tissue of the spinal cord with objective neurological indication of
- 12 intractable spasticity;
- 13 k. Glaucoma;
- 14 l. Epilepsy;
- 15 m. A terminal illness; and
- 16 n. A chronic or debilitating disease or medical condition or treatment for such
- 17 disease or medical condition that produces one or more of the following:
- 18 (1) Cachexia or wasting syndrome;
- 19 (2) Severe debilitating pain that has not responded to previously prescribed
- 20 medication or surgical measures for more than three months or for which
- 21 other treatment options produced serious side effects;
- 22 (3) Intractable nausea;
- 23 (4) Seizures; or
- 24 (5) Severe and persistent muscle spasms, including those characteristic of
- 25 multiple sclerosis.
- 26 16. "Department" means the state department of health.
- 27 17. "Designated caregiver" means an individual who agrees to manage the well-being of a
- 28 registered qualifying patient with respect to the qualifying patient's medical use of
- 29 marijuana.

- 1 18. "Dispensary" means an entity registered by the department as a compassion center
2 authorized to dispense usable marijuana to a registered qualifying patient and a
3 registered designated caregiver.
- 4 19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
5 enclosed area equipped with locks or other security devices that permit access limited
6 to individuals authorized under this chapter or rules adopted under this chapter.
- 7 20. "Health care provider" means a physician or an advanced practice registered nurse.
- 8 21. "Manufacturing facility" means an entity registered by the department as a compassion
9 center authorized to produce and process and to sell usable marijuana to a
10 dispensary.
- 11 22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;
12 the resin extracted from any part of the plant; and every compound, manufacture, salt,
13 derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin
14 extracted from any part of the plant.
- 15 23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
16 of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid
17 product or a cannabinoid concentrate.
- 18 24. "Medical cannabinoid product" means a product intended for human consumption or
19 use which contains cannabinoids.
- 20 a. Medical cannabinoid products are limited to the following forms:
21 (1) Cannabinoid tincture;
22 (2) Cannabinoid capsule;
23 (3) Cannabinoid transdermal patch; ~~and~~
24 (4) Cannabinoid topical; and
25 (5) Cannabinoid edible product.
- 26 b. "Medical cannabinoid product" does not include:
27 (1) ~~A cannabinoid edible product;~~
28 (2) A cannabinoid concentrate by itself; or
29 (3)(2) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 30 25. "Medical marijuana product" means a cannabinoid concentrate or a medical
31 cannabinoid product.

- 1 26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable
2 marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of
3 the genus cannabis, including dead plants and all unused plant parts and roots.
- 4 27. "Medical use of marijuana" means the acquisition, use, and possession of usable
5 marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
- 6 28. "Minor" means an individual under the age of nineteen.
- 7 29. "North Dakota identification" means a North Dakota driver's license or comparable
8 state of North Dakota or federal issued photo identification card verifying North Dakota
9 residence.
- 10 30. "Pediatric medical marijuana" means a medical marijuana product containing
11 cannabidiol which may not contain a maximum concentration or amount of
12 tetrahydrocannabinol of more than six percent.
- 13 31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in
14 the state of North Dakota.
- 15 32. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for
16 posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental
17 Disorders", American psychiatric association, fifth edition, text revision (2013).
- 18 33. "Processing" or "process" means the compounding or conversion of marijuana into a
19 medical marijuana product.
- 20 34. "Producing", "produce", or "production" mean the planting, cultivating, growing,
21 trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves
22 or flowers of the plant of the genus cannabis.
- 23 35. "Qualifying patient" means an individual who has been diagnosed by a health care
24 provider as having a debilitating medical condition.
- 25 36. "Registry identification card" means a document issued by the department which
26 identifies an individual as a registered qualifying patient, registered designated
27 caregiver, or registered compassion center agent.
- 28 37. "Terminal illness" means a disease, illness, or condition of a patient:
29 a. For which there is not a reasonable medical expectation of recovery;

- 1 b. Which as a medical probability, will result in the death of the patient, regardless of
2 the use or discontinuance of medical treatment implemented for the purpose of
3 sustaining life or the life processes; and
- 4 c. As a result of which, the patient's health care provider would not be surprised if
5 death were to occur within six months.
- 6 38. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
7 of the plant of the genus cannabis in a combustible delivery form. However, the term
8 does not include the dried leaves or flowers unless authorized through a written
9 certification ~~and does not include a cannabinoid edible product~~. In the case of a
10 registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric
11 medical marijuana.
- 12 39. "Verification system" means the system maintained by the department under section
13 19-24.1-31 for verification of registry identification cards.
- 14 40. "Written certification" means a form established by the department which is executed,
15 dated, and signed by a health care provider within ninety calendar days of the date of
16 application, stating that in the health care provider's professional opinion the patient is
17 likely to receive therapeutic or palliative benefit from the medical use of marijuana to
18 treat or alleviate the patient's debilitating medical condition. A health care provider may
19 authorize the use of dried leaves or flowers of the plant of the genus cannabis in a
20 combustible delivery form to treat or alleviate the patient's debilitating medical
21 condition. A written certification may not be made except in the course of a bona fide
22 provider-patient relationship.

23 **SECTION 2.** A new subsection to section 19-24.1-36 of the North Dakota Century Code is
24 created and enacted as follows:

25 The health council shall adopt rules to regulate the form, packaging, and marketing of
26 a cannabinoid edible product. The rules must prohibit the marketing of a cannabinoid
27 edible product to a minor.

28 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.