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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3439

02/17/2020 Authored by Edelson and Freiberg
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to health; permitting the possession and use of medical cannabis on school
1.3 grounds in certain circumstances; providing certain personnel with protection from
1.4 civil penalties, criminal penalties, and disciplinary action; directing the
1.5 commissioner of health to develop a standardized form for use by children and
1.6 pupils seeking to possess and use medical cannabis on school grounds; amending
1.7 Minnesota Statutes 2018, section 152.23; Minnesota Statutes 2019 Supplement,
1.8 section 152.32, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.9 chapter 152.

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

1.11 Section 1. Minnesota Statutes 2018, section 152.23, is amended to read:

1.12 152.23 LIMITATIONS.

1.13 (a) Nothing in sections 152.22 to 152.37 permits any person to engage in and does not
1.14 prevent the imposition of any civil, criminal, or other penalties for:

1.15 (1) undertaking any task under the influence of medical cannabis that would constitute
1.16 negligence or professional malpractice;

1.17 (2) possessing or engaging in the use of medical cannabis:

1.18 (i) on a school bus or van;

1.19 (ii) on the grounds of any ~~preschool or primary~~ prekindergarten program, elementary
1.20 school, or secondary school, except as authorized under section 152.345;

1.21 (iii) in any correctional facility; or

1.22 (iv) on the grounds of any child care facility or ~~home day care~~ family or group family
1.23 day care program;

2.1 (3) vaporizing medical cannabis pursuant to section 152.22, subdivision 6:
 2.2 (i) on any form of public transportation;
 2.3 (ii) where the vapor would be inhaled by a nonpatient minor child; or
 2.4 (iii) in any public place, including any indoor or outdoor area used by or open to the
 2.5 general public or a place of employment as defined under section 144.413, subdivision 1b;
 2.6 and

2.7 (4) operating, navigating, or being in actual physical control of any motor vehicle,
 2.8 aircraft, train, or motorboat, or working on transportation property, equipment, or facilities
 2.9 while under the influence of medical cannabis.

2.10 (b) Nothing in sections 152.22 to 152.37 require the medical assistance and
 2.11 MinnesotaCare programs to reimburse an enrollee or a provider for costs associated with
 2.12 the medical use of cannabis. Medical assistance and MinnesotaCare shall continue to provide
 2.13 coverage for all services related to treatment of an enrollee's qualifying medical condition
 2.14 if the service is covered under chapter 256B or 256L.

2.15 Sec. 2. Minnesota Statutes 2019 Supplement, section 152.32, subdivision 2, is amended
 2.16 to read:

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

2.19 (1) use or possession of medical cannabis or medical cannabis products by a patient
 2.20 enrolled in the registry program, or possession by a registered designated caregiver or the
 2.21 parent, legal guardian, or spouse of a patient if the parent, legal guardian, or spouse is listed
 2.22 on the registry verification;

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

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

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

2.30 (c) The commissioner, the commissioner's staff, the commissioner's agents or contractors,
 2.31 and any health care practitioner are not subject to any civil or disciplinary penalties by the
 2.32 Board of Medical Practice, the Board of Nursing, or by any business, occupational, or

3.1 professional licensing board or entity, solely for the participation in the registry program
3.2 under sections 152.22 to 152.37. A pharmacist licensed under chapter 151 is not subject to
3.3 any civil or disciplinary penalties by the Board of Pharmacy when acting in accordance
3.4 with the provisions of sections 152.22 to 152.37. Nothing in this section affects a professional
3.5 licensing board from taking action in response to violations of any other section of law.

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

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

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

3.17 (g) No information contained in a report, document, or registry or obtained from a patient
3.18 under sections 152.22 to 152.37 may be admitted as evidence in a criminal proceeding
3.19 unless independently obtained or in connection with a proceeding involving a violation of
3.20 sections 152.22 to 152.37.

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

3.23 (i) An attorney may not be subject to disciplinary action by the Minnesota Supreme
3.24 Court or professional responsibility board for providing legal assistance to prospective or
3.25 registered manufacturers or others related to activity that is no longer subject to criminal
3.26 penalties under state law pursuant to sections 152.22 to 152.37.

3.27 (j) Possession of a registry verification or application for enrollment in the program by
3.28 a person entitled to possess or apply for enrollment in the registry program does not constitute
3.29 probable cause or reasonable suspicion, nor shall it be used to support a search of the person
3.30 or property of the person possessing or applying for the registry verification, or otherwise
3.31 subject the person or property of the person to inspection by any governmental agency.

3.32 (k) Licensed school nurses, certified public health nurses employed by or under contract
3.33 with a school board according to section 121A.21, and school personnel are not subject to

4.1 criminal penalties under this chapter, civil penalties, or disciplinary action solely for storing,
4.2 dispensing, or administering medical cannabis according to section 152.345 and according
4.3 to all applicable policies or guidelines adopted by the school board.

4.4 **Sec. 3. [152.345] POSSESSION AND USE OF MEDICAL CANNABIS ON SCHOOL**
4.5 **GROUNDS.**

4.6 Subdivision 1. **Possession and use authorized.** An elementary or secondary school
4.7 pupil or a child participating or enrolled in a prekindergarten program is permitted to possess
4.8 medical cannabis, have medical cannabis stored, and self-administer medical cannabis or
4.9 have medical cannabis administered on the grounds of a prekindergarten program, elementary
4.10 school, or secondary school if:

4.11 (1) the child or pupil is enrolled as a patient in the registry program;

4.12 (2) the possession, storage, and administration occur in compliance with all applicable
4.13 policies or guidelines adopted by the school board;

4.14 (3) the child or pupil or the child's or pupil's parent submits to the school a form provided
4.15 by the Department of Health and completed by the child's or pupil's health care practitioner
4.16 and by a pharmacist employed by the manufacturer that distributes the child's or pupil's
4.17 medical cannabis; and

4.18 (4) the medical cannabis is administered or self-administered in a manner that does not
4.19 disrupt the educational environment or expose other children or pupils to medical cannabis.

4.20 Subd. 2. **Self-administration.** Only a pupil who is age 18 or older is permitted to
4.21 self-administer medical cannabis under this section.

4.22 **Sec. 4. STANDARDIZED FORM.**

4.23 The commissioner of health, in consultation with the commissioner of education, shall
4.24 develop a standardized form to be completed by: (1) a health care practitioner who certifies
4.25 that a child participating or enrolled in a prekindergarten program or a pupil enrolled in an
4.26 elementary school or secondary school has a qualifying medical condition; and (2) a
4.27 pharmacist employed by the manufacturer that distributes the child's or pupil's medical
4.28 cannabis. The standardized form must provide space for the health care practitioner and
4.29 pharmacist to specify a child's or pupil's qualifying medical condition, dosage of medical
4.30 cannabis, frequency of administration, circumstances that warrant administration, and other
4.31 relevant information.