February 14, 2020

Medical Cannabidiol Board
Iowa Laboratory Facility
DMACC Ankeny Campus
2240 DMACC Blvd. - Room 209
Ankeny, IA

Dear Board Members,

The Iowa Department of Public Health (IDPH) denied the request the board approved for federal exemption of Iowa's Medical Cannabidiol Act, Iowa Code Chapter 124E, pursuant to 21 C.F.R. §1307.03 and consistent with 21 U.S.C. §903.

On January 7, 2020, IDPH wrote: "Neither the DEA nor any other federal agency has taken any adverse action that we are aware of …"

On September 23, 2019, Attorney General Tom Miller wrote: "Beyond imposing on states' rights, the status quo poses a serious threat to public safety."

The inconsistency here is dramatic.

In response, two bills have been filed, HSB 653 and SSB 3136, attempting to address this issue. The language says IDPH will seek a guarantee from the federal departments of education and health that federal funding will not be withheld due to the implementation of Iowa's Medical Cannabidiol Act. IDPH tells me it does not know how it would implement HSB 653 and SSB 3136.

The U.S. Department of Justice and the President of the United States both say they will no longer honor the former administration's policy of non-enforcement of federal law, which has made the current situation "untenable" as U.S. Attorney General William Barr stated on January 14, 2020.

https://www.rollingstone.com/culture/culture-news/attorney-general-william-barr-marijuana-779514/

Any assistance the board can provide in correcting the language in HSB 653 and SSB 3136 would be greatly appreciated.

This board expressed concern with HF 732 last year and I would hope it would continue to do so going forward.

Thank you very much!

Carl Olsen
130 NE Aurora Ave
Des Moines, IA 50313-3654
515-343-9933
carl@carl-olsen.com

Iowa Department of Public Health
Protecting and Improving the Health of Iowans

Gerd W. Clabaugh, MPA
Director

Kim Reynolds
Governor

Adam Gregg
Lt. Governor

January 7, 2020

Carl Olsen
130 E Aurora Ave
Des Moines, IA 50313-3654

RE: Petition for Agency Action

Dear Mr. Olsen,

On September 21, 2019, you submitted a Petition for Agency Action to the Iowa Department of Public Health (IDPH) requesting that IDPH file an application with the Drug Enforcement Administration to obtain exemption from federal drug laws and regulations for Iowa's medical cannabidiol program. On September 22, 2019, you filed an amended Petition, correcting a typo on page 5.

Specifically, your Petition asserts that in the absence of any evidence that the Iowa General Assembly intended to adopt a medical cannabidiol program that is in direct conflict with federal drug laws and regulations, IDPH is obligated to seek an exemption for Iowa's program to reconcile what may be a perceived, but unintended, conflict between state and federal law.

This petition was preceded by a Petition for Recommendation you filed with the Iowa Medical Cannabidiol Board on April 13, 2019. That Petition requested that the Board recommend that IDPH apply for a federal exemption with the DEA as previously outlined. At a meeting on August 2, 2019, the Iowa Medical Cannabidiol Board unanimously recommended that IDPH consider requesting the aforementioned exemption from the DEA.

As noted in your Petition of September 22, 2019, a total of 47 states have enacted legislation accepting the medical use of *Cannabis* or its derivatives. To the best of our collective knowledge, none of these states have moved forward with an application to the DEA requesting the kind of federal exemption your Petition suggests is required.

Iowa Code chapter 124E does not mandate that IDPH seek an exemption from federal law and regulations for Iowa's medical cannabidiol program. To date, neither the DEA nor any other federal agency has taken any adverse action we are aware of related to Iowa's medical cannabidiol program, including the activities mandated and authorized by the Iowa General Assembly. For the foregoing reasons, IDPH declines to submit the requested application for exemption at this time.

Sincerely,

Sarah G. Reisetter
Deputy Director

September 23, 2019

Hon. Nancy Pelosi
Speaker of the House
H-232, The Capitol
Washington, DC 20515

Hon. Kevin McCarthy
Minority Leader
H-204, The Capitol
Washington, DC 20515

Hon. Mitch McConnell
Majority Leader
317 Russell Bldg.
Washington, DC 20510

Hon. Charles E. Schumer
Minority Leader
322 Hart Bldg.
Washington, DC 20510

Hon. Steny Hoyer
Majority Leader
H-107, The Capitol
Washington, DC 20515

Hon. Steve Scalise
Minority Whip
1705 Longworth Office Building
Washington, DC 20515

Hon. James E. Clyburn
Majority Whip
H-329. The Capitol.
Washington, DC 20510

Hon. Richard J. Durbin
Minority Whip
711 Hart Bldg.
Washington, DC 20510

Hon. Peter DeFazio
Chair
House Committee on Transportation and Infrastructure
2134 Rayburn Office Building
Washington, DC 20515

Hon. Sam Graves
Ranking Member
House Committee on Transportation and Infrastructure
1135 Longworth House Office Building
Washington, DC 20515

Hon. Frank Pallone
Chair
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Hon. Greg Walden
Ranking Member
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Hon. Karen Bass
Chair
House Committee on the Judiciary
2141 Rayburn House Office Building
Washington, D.C. 20515

Hon. John Ratcliffe
Ranking Member
House Committee on the Judiciary
2141 Rayburn House Office Building
Washington, D.C. 20515

Hon. Lindsey Graham
Chair
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Congressional Leaders:

We are a bipartisan group of state and territorial attorneys general who share a strong interest in defending states' rights, protecting public safety, improving our criminal justice systems, and regulating new industries appropriately. To address these concerns, we urge Congress to advance legislation like the bipartisan STATES Act (Strengthening the Tenth Amendment Through Entrusting States Act), currently proceeding as S.B. 1028 in the Senate and H.R. 2093 in the House of Representatives. The proposed STATES Act, or legislation like it, would allow each State and territory to determine, for itself, the best approach to marijuana legalization within its borders, while at the same time creating protections to ensure that such regulation does not impose negative externalities on those states and territories that choose other approaches. **Indeed, nothing in the proposed STATES Act, and nothing in this letter, is meant as an endorsement of any state or territory's particular approach to cannabis policy**. Instead, legislation like the proposed STATES Act is simply meant to ensure that if a state or territory does choose to legalize some form of marijuana use – which at least 33 states and several territories have done – its residents are not subject to a confusing and dangerous regulatory limbo.

As noted, the majority of Americans are affected by this issue. Today, some 33 states and several territories have passed laws that legalize the use of marijuana in at least some capacity. However, under the Controlled Substances Act and 18 U.S.C. § 1956 and 1957, businesses and individuals who produce, sell, or possess marijuana, or engage in financial transactions with proceeds thereby derived are still in violation of federal law. This inconsistency puts a significant burden upon businesses working to operate in a legal industry in a manner that is safe and compliant with state law, as well as on law enforcement agencies trying to ensure complicity to regulations. It also represents a substantial imposition on the prerogative of states and territories to choose those policies that work best for them and their citizens.

Beyond imposing on states' rights, the status quo poses a serious threat to public safety. Under 18 U.S.C. § 1956 and 1957, financial institutions face substantial constraints in providing financial services to the cannabis industry. The result is that much of this industry is forced to conduct business on a cash-only model. In turn, this contributes to a public safety threat as cash-intensive businesses are often targets for criminal activity and make it more difficult to track revenues for taxation and regulatory compliance purposes.

Legislation such as the STATES Act, by ensuring the CSA does not "apply to any person acting in compliance with State law relating to the manufacture, production, possession, distribution, dispensation, administration, [sale,] or delivery of mari[j]uana," will strike at the root of these challenges. In particular, it will lift the cloud of regulatory uncertainty that hangs over legitimate businesses operating in most states in the union and in several territories. In turn, this will reduce the industry's reliance on cash, bring greater clarity to the industry, prevent crime by limiting opportunities for potentially violent robberies and thefts, and ensure that each state has the freedom to determine policy in this area. At the same time, the Act also includes crucial guardrails to ensure that the choices any state makes does not adversely impact its neighbors.

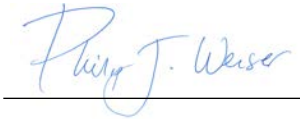
Ultimately, legislation like the proposed STATES Act recognizes the reality on the ground: across the country, state governments, America's "laboratories of democracy," have been working toward those cannabis policies that work best for them. Against this backdrop, the CSA's outdated restrictions imperil states' rights, and in the process, impose serious regulatory and public safety consequences. As law enforcement officers and as lawyers representing our states and territories, we believe the time has come to do better. We urge the adoption of legislation like the proposed STATES Act.

Sincerely,

KARL RACINE
District of Columbia Attorney General

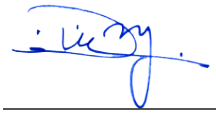
XAVIER BECERRA
California Attorney General

AARON FORD
Nevada Attorney General



PHIL WEISER
Colorado Attorney General

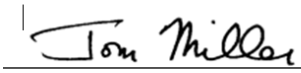
LETITIA JAMES
New York Attorney General



WILLIAM TONG
Connecticut Attorney General

KEVIN CLARKSON
Alaska Attorney General

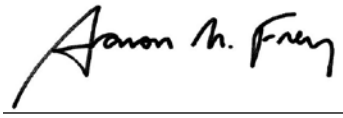
KWAME RAOUL
Illinois Attorney General



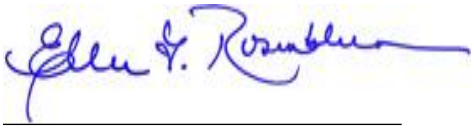
TOM MILLER
Iowa Attorney General

ANDY BESHEAR
Kentucky Attorney General

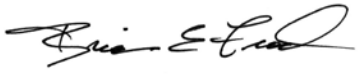
HECTOR BALDERAS
New Mexico Attorney General



AARON FREY
Maine Attorney General



ELLEN ROSENBLUM
Oregon Attorney General



BRIAN FROSH
Maryland Attorney General

JOSH SHAPIRO
Pennsylvania Attorney General

MAURA HEALEY
Massachussetts Attorney General

PETER NERONHA
Rhode Island Attorney General

DANA NESSEL
Michigan Attorney General

T.J. DONOVAN
Vermont Attorney General

KEITH ELLISON
Minnesota Attorney General

BOB FERGUSON
Washington Attorney General

The Tax Adviser

Tax pitfalls of owning a marijuana business

By Jackie Fountain, CPA, MST, Irvine, Calif.
November 1, 2018

Editor: Mark G. Cook, CPA, CGMA

In recent years, a number of states have legalized marijuana to one degree or another. Some states have legalized marijuana for recreational purposes, while others are allowing marijuana possession and growing. Some states have legalized marijuana only for medicinal purposes. And while these states have legislated to decriminalize marijuana to varying levels, depending on the state, the fact remains that marijuana continues to be illegal under federal law.

In the wake of this relaxation in marijuana prohibition laws, businesses (often termed dispensaries) whose main product is marijuana are springing up in states where marijuana has become legal. These businesses are accounting for and reporting the results of their operations just like any other for-profit business, with gross receipts, cost of goods sold (COGS), and other deductions. While these states have no issues with the way these dispensaries are being run and are paying their state income taxes, the problem, or pitfall, is the existing federal prohibition. Because of this, the way financial information is reported for federal tax purposes by a business that is trafficking in a controlled substance is very different than for state purposes.

Interestingly, the federal government has classified marijuana as a Schedule 1 drug according to the Controlled Substances Act (CSA), P.L. 91-513, the same classification as heroin. This classification means that it is perceived to have no medicinal value and a high potential for abuse. By comparison, cocaine and methamphetamine are classified under the CSA as Schedule 2 drugs, which is a less restrictive category. The distinction is that Schedule 2 substances are viewed legally as having some medicinal value. This does not necessarily mean marijuana is believed to be more dangerous than Schedule 2 substances, just that no proof has been established of its medicinal value; therefore, it is under greater regulatory scrutiny. And while the substance remains illegal, chances for that proof to be obtained through clinical trials are virtually nonexistent.

Marijuana's criminal classification at the federal level has other serious ramifications for marijuana policy even in states where recreational use and possession have been legalized. Many state-legal marijuana businesses, for instance, must function as cash-only enterprises, since many banks are nervous about dealing with businesses that are essentially breaking federal law. Businesses also cannot claim several deductions and, as a result, their effective income tax rates can soar to as high as 90% or more.

Sec. 280E provides:

> No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances . . . which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

This means, essentially, that for federal tax purposes, marijuana businesses pay income taxes on their gross profit instead of their net income because below-the-line deductions are not allowed.

The IRS requires that gross income be reported from whatever source it is derived (Sec. 61). Accordingly, the income generated from trafficking in marijuana, even though it is classified as an illegal substance, must be reported for federal tax purposes. This raises a dilemma for some: Do they risk tax evasion if they do not report their income, or do they risk criminal prosecution if they do? And for those who choose to report the income and take the prosecution risk, deductions are minimal and, therefore, their tax bills are quite high.

The IRS has issued guidance to provide that the calculation of gross profit would include a deduction for COGS. COGS, historically, is not considered an expense but rather a component of gross income. On the other hand, the other deductions normally allowed in a for-profit business are specifically excluded by Sec. 280E. These other deductions include items such as utilities, wages, rent, taxes, and repairs. For example, if a marijuana business buys goods for $10 and resells them for $20, the business is required to report a $10 profit. The COGS is $10. For a business trafficking in an illegal substance, no other deduction is allowed.

The complexity comes in determining what is legitimately included in COGS. Any deduction that could be attributable to general business activities or marketing activities would be difficult to establish as being part of COGS. However, sometimes the line between what is or is not COGS is not so easy to discern.

An additional twist was addressed in *Loughman*, T.C. Memo. 2018-85. In this case, the business was an S corporation. The IRS determined that the wage payments made to the owners from their medical marijuana dispensary business were not deductible by the S corporation under the Sec. 280E regulations, resulting in higher flowthrough income to the owners. At the same time, the wages paid to them from the business, which are required to be reasonable for an S corporation, were picked up on their personal return. This treatment effectively caused them to be taxed twice on the same income. The taxpayers argued that this was contrary to the purpose and intent of Subchapter S. However, the court drew a distinction between their gross income from wages and their passthrough income from owning the S corporation, and stated the Loughmans were free to operate as any type of business entity.

To give an example of the disparity of taxes paid by a state-legal marijuana business compared to a for-profit business, the National Cannabis Industry Association selected two similarly situated businesses and found the effective tax rates were 55% for the marijuana-related business compared with 30% for the similarly situated nonmarijuana business. This is strong evidence of the hugely disproportionate tax bills for these businesses authorized by state law but treated as criminal under federal law.

Congress has proposed several options for addressing the problems caused by Sec. 280E. A few of the options considered are: (1) to legalize marijuana; (2) to change marijuana's schedule classification; (3) to make a specific exception in the statute for marijuana; and (4) to change the wording to include only those substances deemed illegal by *both* federal and state law. To date, however, none of these proposals have

made any headway in the legislative process.

EditorNotes

Mark G. Cook, CPA, CGMA, is the lead tax partner with SingerLewak LLP in Irvine, Calif.

For additional information about these items, contact Mr. Cook at 949-261-8600 or mcook@singerlewak.com (mailto:mcook@singerlewak.com).

Unless otherwise noted, contributors are members of or associated with SingerLewak LLP.

Office of the Attorney General
Washington, D. C. 20530

January 4, 2018

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: Jefferson B. Sessions, III
Attorney General

SUBJECT: Marijuana Enforcement

In the Controlled Substances Act, Congress has generally prohibited the cultivation, distribution, and possession of marijuana. 21 U.S.C. § 801 *et seq*. It has established significant penalties for these crimes. 21 U.S.C. § 841 *et seq*. These activities also may serve as the basis for the prosecution of other crimes, such as those prohibited by the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act. 18 U.S.C. §§ 1956-57, 1960; 31 U.S.C. § 5318. These statutes reflect Congress's determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.

In deciding which marijuana activities to prosecute under these laws with the Department's finite resources, prosecutors should follow the well-established principles that govern all federal prosecutions. Attorney General Benjamin Civiletti originally set forth these principles in 1980, and they have been refined over time, as reflected in chapter 9-27.000 of the U.S. Attorneys' Manual. These principles require federal prosecutors deciding which cases to prosecute to weigh all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community.

Given the Department's well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately.[1] This memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion in accordance with all applicable laws, regulations, and appropriations. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.

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[1] Previous guidance includes: David W. Ogden, Deputy Att'y Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (Oct. 19, 2009); James M. Cole, Deputy Att'y Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (June 29, 2011); James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (Aug. 29, 2013); James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes (Feb. 14, 2014); and Monty Wilkinson, Director of the Executive Office for U.S. Att'ys, Policy Statement Regarding Marijuana Issues in Indian Country (Oct. 28, 2014).

STATEMENTS & RELEASES

Statement by the President

BUDGET & SPENDING | Issued on: **December 20, 2019**

★ ★ ★

Today, I have signed into law H.R. 1158, the "Consolidated Appropriations Act, 2020" (the "Act"), which authorizes appropriations to fund the operation of certain agencies in the Federal Government through September 30, 2020.

Certain provisions of the Act (such as Division A, section 8070) purport to restrict the President's constitutional authority as Commander in Chief to control the personnel and materiel that the President believes to be necessary or advisable for the successful conduct of military missions. Others provisions (such as Division A, sections 8075, 8078, 8110, 9013, and 9016) purport to require advance notice to the Congress before the President may direct certain military actions or provide certain forms of military assistance.

In addition, Division C, section 534 and Division D, section 516 of the Act restricts transfers of detainees held at United States Naval Station Guantanamo Bay. I fully intend to keep that detention facility open and to use it, as necessary or appropriate, for detention operations. Consistent with the statements I have issued in signing other bills, my Administration will treat these, and similar provisions, in a manner consistent with the President's constitutional authority as Commander in Chief. I also reiterate the longstanding understanding of the executive branch that requirements of advance notice regarding military or diplomatic actions encompass only actions for

which providing advance notice is feasible and consistent with the President's constitutional authority and duty as Commander in Chief to ensure national security.

Certain provisions of the Act (such as Division B, sections 509, 516, and 526; Division D, section 523) could, in certain circumstances, interfere with the exercise of the President's constitutional authority to conduct diplomacy. My Administration will treat each of these provisions consistent with the President's constitutional authorities with respect to foreign relations, including the President's role as the sole representative of the Nation in foreign affairs.

Division B, section 531 of the Act provides that the Department of Justice may not use any funds made available under this Act to prevent implementation of medical marijuana laws by various States and territories. My Administration will treat this provision consistent with the President's constitutional responsibility to faithfully execute the laws of the United States.

Certain provisions of the Act within Division D, title II, under the heading "Office of Management and Budget—Salaries and Expenses," impose restrictions on supervision by the Office of Management and Budget (OMB) of work performed by executive departments and agencies, including provisos that no funds made available to OMB "may be expended for the altering of the annual work plan developed by the Corps of Engineers for submission to the Committees on Appropriations"; that "none of the funds provided in this or prior Acts shall be used, directly or indirectly, by the Office of Management and Budget, for evaluating or determining if water resource project or study reports submitted by the Chief of Engineers acting through the Secretary of the Army are in compliance with all applicable laws, regulations, and requirements relevant to the Civil Works water resource planning process"; and that "none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 *et seq.*)." The President has well-established authority to supervise and oversee the executive branch and to rely on subordinates, including aides within the

Executive Office of the President, to assist in the exercise of that authority. Legislation that significantly impedes the President's ability to supervise the executive branch or obtain the assistance of aides in this function violates the separation of powers by undermining the President's ability to fulfill his constitutional responsibilities, including the responsibility to faithfully execute the laws of the United States. My Administration will, therefore, treat these restrictions consistent with these Presidential duties.

Certain provisions of the Act (such as Division C, sections 713 and 743) purport to prohibit the use of appropriations to supervise communications by employees of the executive branch to the Congress and to Inspectors General. Other provisions (such as Division C, section 616) purport to prohibit the use of funds to deny an Inspector General access to agency records or documents. My Administration will treat these provisions in a manner consistent with the President's constitutional authority to control the disclosure of information that could impair foreign relations, national security, law enforcement, the deliberative processes of the executive branch, or the performance of the President's constitutional duties, and to supervise communications by Federal officers and employees related to their official duties, including in cases where such communications would be unlawful or could reveal confidential information protected by executive privilege.

In addition, certain provisions of the Act (such as Division B, section 112) purport to mandate or regulate the dissemination of information that may be protected by executive privilege. My Administration will treat these provisions consistent with the President's constitutional authority to control information, the disclosure of which could impair national security, foreign relations, the deliberative processes of the executive branch, or the performance of the President's constitutional duties.

Certain provisions of the Act (such as Division D, section 536) purport to require recommendations regarding legislation to the Congress. Because the Constitution gives the President the authority to recommend only "such Measures as he shall judge necessary and expedient," my Administration will continue the practice of treating

provisions like these as advisory and non-binding.

Certain provisions of the Act (such as Division C, sections 101, 112, 113, 116, 117, 201, 541, 608, 609, 717, 730, 803(a), and 815) purport to condition the authority of officers to spend or reallocate funds on the approval of one or more congressional committees. These are impermissible forms of congressional aggrandizement in the execution of the laws other than by the enactment of statutes. My Administration will make appropriate efforts to notify the relevant committees before taking the specified actions and will accord the recommendations of such committees all appropriate and serious consideration, but it will not treat spending decisions as dependent on the approval or prior consultation with congressional committees.

DONALD J. TRUMP

THE WHITE HOUSE,
December 20, 2019.

House Study Bill 653 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON PUBLIC SAFETY BILL BY CHAIRPERSON KLEIN)

A BILL FOR

An Act concerning the medical cannabidiol Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

subparagraph (1), subparagraph division (c), Code 2020, is amended to read as follows:

(c) To authorized employees of a medical ~~cannabidiol~~ cannabis dispensary, but only for the ~~purpose~~ purposes of verifying that a person is lawfully in possession of a medical ~~cannabidiol~~ cannabis registration card issued pursuant to this chapter and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by this chapter.

Sec. 18. Section 124E.11, subsection 1, paragraph b, subparagraph (1), Code 2020, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to section 124E.3 has already received a written certification from another health care practitioner.

Sec. 19. Section 124E.12, subsection 7, Code 2020, is amended to read as follows:

7. Notwithstanding any law to the contrary, the department, ~~the department of transportation,~~ the governor, or any employee of any state agency shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment as authorized under this chapter.

Sec. 20. NEW SECTION. **124E.20 Observational effectiveness study.**

The department may conduct an observational effectiveness study in cooperation with patients and health care practitioners and pursuant to rules of the department in order to study the effectiveness of medical cannabis in the treatment of debilitating medical conditions.

Sec. 21. PROTECTION OF FEDERAL FUNDING. The department of public health shall request guarantees from the agencies of the federal government providing funding to educational

and long-term care facilities that facilities with policies allowing patients to possess medical cannabis on the grounds of the facilities consistent with chapter 124E or allowing facility staff to administer medical cannabis to a patient shall not lose eligibility for any federal funding due to such policies.

Sec. 22. TRANSITION PROVISIONS. A medical cannabidiol registration card issued prior to July 1, 2020, remains effective and continues in effect as issued for the twelve-month period following its issuance.

DIVISION II

MEDICAL CANNABIDIOL PROGRAM NAME CHANGE —— CONFORMING CODE CHANGES

Sec. 23. Section 124.401, subsection 5, unnumbered paragraph 3, Code 2020, is amended to read as follows:

A person may knowingly or intentionally recommend, possess, use, dispense, deliver, transport, or administer ~~cannabidiol~~ medical cannabis if the recommendation, possession, use, dispensing, delivery, transporting, or administering is in accordance with the provisions of chapter 124E. For purposes of this paragraph, ~~"cannabidiol"~~ "medical cannabis" means the same as defined in section 124E.2.

Sec. 24. Section 124E.2, subsection 7, Code 2020, is amended to read as follows:

7. "Primary caregiver" means a person who is a resident of this state or a bordering state as defined in section 331.910, including but not limited to a parent or legal guardian, at least eighteen years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical ~~cannabidiol~~ cannabis pursuant to the provisions of this chapter.

Sec. 25. Section 124E.3, subsection 1, Code 2020, is amended to read as follows:

1. Prior to a patient's submission of an application for

Senate Study Bill 3136 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

An Act relating to the medical cannabidiol Act, and including transition provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6. The department~~, the department of transportation,~~ and any health care practitioner, including any authorized agent or employee thereof, are not subject to any civil or disciplinary penalties by the board of medicine or any business, occupational, or professional licensing board or entity, solely for activities conducted relating to a patient's possession or use of medical cannabidiol as authorized under this chapter. Nothing in this section affects a professional licensing board from taking action in response to violations of any other section of law.

7. Notwithstanding any law to the contrary, the department, ~~the department of transportation,~~ the governor, or any employee of any state agency shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment as authorized under this chapter.

Sec. 27. NEW SECTION. **124E.20 Observational effectiveness study.**

The department shall, upon receipt of funding, conduct an observational effectiveness study in cooperation with patients and health care practitioners and pursuant to rules of the department in order to study the effectiveness of medical cannabidiol in the treatment of debilitating medical conditions.

Sec. 28. PROTECTION OF FEDERAL FUNDING. The department of public health shall request guarantees from the agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities consistent with chapter 124E or allowing facility staff to administer medical cannabidiol to a patient shall not lose eligibility for any federal funding due to such policies.

Sec. 29. TRANSITION PROVISIONS. A medical cannabidiol registration card issued by the department of transportation