State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3568

03/08/2018 Authored by Garofalo, Halverson and Zerwas
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

A bill for an act

relating to health; changing provisions for medical cannabis manufacturer registration and patient registry program; amending Minnesota Statutes 2016, sections 152.27, by adding a subdivision; 152.29, subdivision 1; Minnesota Statutes 2017 Supplement, sections 144.99, subdivision 1; 152.25, subdivision 1; 364.09.

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

Section 1. Minnesota Statutes 2017 Supplement, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **Remedies available.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.1201 to 144.1204; 144.121; 144.1215; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.495; 144.71 to 144.74; 144.9501 to 144.9512; 144.97 to 144.98; 144.992; 152.22 to 152.37; 326.70 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 2. Minnesota Statutes 2017 Supplement, section 152.25, subdivision 1, is amended to read:

Subdivision 1. **Medical cannabis manufacturer registration.** (a) The commissioner ~~shall~~ may register ~~two~~ up to three in-state manufacturers for the production of all medical cannabis within the state. The commissioner may not register a third manufacturer until the commissioner determines there are more than 15,000 registered patients. The commissioner

shall register new manufacturers or reregister the existing manufacturers by December 1 every two years, using the factors described in this subdivision. The commissioner ~~shall~~ may accept applications after December 1, 2014, if ~~one of the manufacturers registered before December 1, 2014, ceases to be registered as a manufacturer~~ fewer than the maximum number of manufacturers are registered or if a registered manufacturer has notified the commissioner it does not intend to renew its registration. The commissioner's determination that no manufacturer exists to fulfill the duties under sections 152.22 to 152.37 is subject to judicial review in Ramsey County District Court. Data submitted during the application process are private data on individuals or nonpublic data as defined in section 13.02 until the manufacturer is registered under this section. Data on a manufacturer that is registered are public data, unless the data are trade secret or security information under section 13.37.

(b) As a condition for registration, a manufacturer must agree to:

(1) begin supplying medical cannabis to patients by ~~July 1, 2015~~ within nine months of signing an initial registration agreement with the state to act as a medical cannabis manufacturer; and

(2) comply with all requirements under sections 152.22 to 152.37.

(c) The commissioner ~~shall~~ may consider the following factors when determining ~~which manufacturer to register~~ whether to register a new manufacturer, approve or deny a re-registration application from a registered manufacturer, or revoke the registration of a registered manufacturer:

(1) the technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under section 152.22, subdivision 6;

(2) the qualifications of the manufacturer's employees;

(3) the long-term financial stability of the manufacturer;

(4) the ability to provide appropriate security measures on the premises of the manufacturer;

(5) whether the manufacturer has demonstrated an ability to meet the medical cannabis production needs required by sections 152.22 to 152.37; ~~and~~

(6) the manufacturer's projection and ongoing assessment of fees on patients with a qualifying medical condition~~.~~; and

(7) the manufacturer's history of past violations, including number, willfulness, and seriousness of the violations, and any economic benefit derived by the manufacturer related to documented violations.

(d) If an officer, director, or controlling person of the manufacturer pleads or is found guilty of intentionally diverting medical cannabis to a person other than allowed by law under section 152.33, subdivision 1, the commissioner may decide not to renew the registration of the manufacturer, provided the violation occurred while the person was an officer, director, or controlling person of the manufacturer.

(e) ~~The commissioner shall require~~ Each medical cannabis manufacturer ~~to~~ shall contract with an independent laboratory to test medical cannabis produced by the manufacturer. The commissioner ~~shall~~ must approve ~~the~~ a laboratory ~~chosen by each manufacturer and~~ before it may test medical cannabis. The commissioner shall require that the laboratory report testing results to the manufacturer and directly to the commissioner in a manner determined by the commissioner.

Sec. 3. Minnesota Statutes 2016, section 152.27, is amended by adding a subdivision to read:

Subd. 4a. **Caregiver limit.** A patient may have no more than a total of five registered designated caregivers and parent or legal guardians acting as caregivers at a time.

Sec. 4. Minnesota Statutes 2016, section 152.29, subdivision 1, is amended to read:

Subdivision 1. **Manufacturer; requirements.** (a) A manufacturer shall operate four distribution facilities, which may include the manufacturer's single location for cultivation, harvesting, manufacturing, packaging, and processing but is not required to include that location. A manufacturer is required to begin distribution of medical cannabis from at least one distribution facility by July 1, 2015. All distribution facilities must be operational and begin distribution of medical cannabis by July 1, 2016. The distribution facilities shall be located based on geographical need throughout the state to improve patient access. A manufacturer shall disclose the proposed locations for the distribution facilities to the commissioner during the registration process. A manufacturer shall operate only one location where all cultivation, harvesting, manufacturing, packaging, and processing shall be conducted. Any additional distribution facilities may dispense medical cannabis and medical cannabis products but may not contain any medical cannabis in a form other than those forms allowed under section 152.22, subdivision 6, and the manufacturer shall not conduct any cultivation, harvesting, manufacturing, packaging, or processing at an additional

distribution facility site. Any distribution facility operated by the manufacturer is subject to all of the requirements applying to the manufacturer under sections 152.22 to 152.37, including, but not limited to, security and distribution requirements.

(b) A medical cannabis manufacturer shall contract with a laboratory approved by the commissioner, subject to any additional requirements set by the commissioner, for purposes of testing medical cannabis manufactured by the medical cannabis manufacturer as to content, contamination, and consistency to verify the medical cannabis meets the requirements of section 152.22, subdivision 6. The cost of laboratory testing shall be paid by the manufacturer.

(c) The operating documents of a manufacturer must include:

(1) procedures for the oversight of the manufacturer and procedures to ensure accurate record keeping; and

(2) procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

(d) A manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

(e) A manufacturer shall not share office space with, refer patients to a health care practitioner, or have any financial relationship with a health care practitioner.

(f) A manufacturer shall not permit any person to consume medical cannabis on the property of the manufacturer.

(g) A manufacturer is subject to reasonable inspection by the commissioner.

(h) For purposes of sections 152.22 to 152.37, a medical cannabis manufacturer is not subject to the Board of Pharmacy licensure or regulatory requirements under chapter 151.

(i) A medical cannabis manufacturer may not employ any person who is under 21 years of age or who has been convicted of a disqualifying felony offense a violation of a state or federal controlled substance law that is a felony under Minnesota law, or would be a felony if committed in Minnesota, regardless of the sentence imposed, unless the commissioner determines that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis. ~~An~~ Each employee, officer, and board member of a medical cannabis manufacturer must submit a completed criminal history records check consent form, a full set of classifiable fingerprints, and the required fees for submission to the Bureau

of Criminal Apprehension. The commissioner must notify the manufacturer of a successful criminal history records check before ~~an~~ the employee, officer, or board member may begin working with the manufacturer. The bureau must conduct a Minnesota criminal history records check and the superintendent is authorized to exchange the fingerprints with the Federal Bureau of Investigation to obtain the applicant's national criminal history record information. The bureau shall return the results of the Minnesota and federal criminal history records checks to the commissioner.

(j) A manufacturer may not operate in any location, whether for distribution or cultivation, harvesting, manufacturing, packaging, or processing, within 1,000 feet of a public or private school existing before the date of the manufacturer's registration with the commissioner.

(k) A manufacturer shall comply with reasonable restrictions set by the commissioner relating to signage, marketing, display, and advertising of medical cannabis.

(l) A manufacturer must notify the commissioner of any assignment or transfer of an ownership interest in the manufacturer of five percent or more. The transferee must submit a completed criminal history records check consent form, a full set of classifiable fingerprints, and the required fees for submission to the Bureau of Criminal Apprehension before any transfer or assignment. The bureau must conduct a Minnesota criminal history records check, and the superintendent is authorized to exchange the fingerprints with the Federal Bureau of Investigation to obtain the transferee's national criminal history records information. The bureau shall return the results of the Minnesota and federal criminal history records checks to the commissioner.

(m) A manufacturer must use an electronic seed-to-sale tracking system that will create and maintain records relating to cannabis and medical cannabis inventory at every stage of medical cannabis life cycle, from either seed stage or immature plant stage through cultivation, extraction, final processing, laboratory testing, transportation, distribution, and sale. The seed-to-sale tracking system must allow for information regarding medical cannabis to be updated instantaneously. The commissioner must be given remote, real-time, read-only access to this system. The costs of maintaining an electronic seed-to-sale tracking system and the costs associated with providing remote, real-time, read-only access to this system shall be paid by the manufacturer.

Sec. 5. Minnesota Statutes 2017 Supplement, section 364.09, is amended to read:

364.09 EXCEPTIONS.

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (f); to fire protection agencies; to eligibility for a private detective or protective agent license; to the licensing and background study process under chapters 245A and 245C; to the background investigation process under section 152.29, subdivision 1, paragraphs (i) and (l), for medical cannabis manufacturer employees, officers, board members, and owners; to the licensing and background investigation process under chapter 240; to eligibility for school bus driver endorsements; to eligibility for special transportation service endorsements; to eligibility for a commercial driver training instructor license, which is governed by section 171.35 and rules adopted under that section; to emergency medical services personnel, or to the licensing by political subdivisions of taxicab drivers, if the applicant for the license has been discharged from sentence for a conviction within the ten years immediately preceding application of a violation of any of the following:

(1) sections 609.185 to 609.2114, 609.221 to 609.223, 609.342 to 609.3451, or 617.23, subdivision 2 or 3; or Minnesota Statutes 2012, section 609.21;

(2) any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or

(3) a violation of chapter 169 or 169A involving driving under the influence, leaving the scene of an accident, or reckless or careless driving.

This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the Professional Educator Licensing and Standards Board or the commissioner of education.

(c) Nothing in this section precludes the Minnesota Police and Peace Officers Training Board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the Board of Medical Practice pursuant to section 147.091, subdivision 1a.

(e) This chapter does not apply to any person who has been denied a license to practice chiropractic or whose license to practice chiropractic has been revoked by the board in accordance with section 148.10, subdivision 7.

(f) This chapter does not apply to any license, registration, or permit that has been denied or revoked by the Board of Nursing in accordance with section 148.261, subdivision 1a.

(g) This chapter does not apply to any license, registration, permit, or certificate that has been denied or revoked by the commissioner of health according to section 148.5195, subdivision 5; or 153A.15, subdivision 2.

(h) This chapter does not supersede a requirement under law to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.