

HOUSE BILL NO. HB0278

Medical cannabis act.

Sponsored by: Representative(s) Barlow, Loucks, Sweeney and Zwonitzer and Senator(s) Baldwin, Case, Rothfuss and Von Flatern

A BILL

for

1 AN ACT relating to controlled substances; providing for  
2 authorized medical cannabis; establishing licensing; granting  
3 rulemaking authority; providing for fees and enforcement;  
4 creating an account; providing penalties for violations;  
5 providing defenses to prosecution; providing definitions; and  
6 providing for effective dates.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 35-7-2201 through 35-7-2211 are created  
11 to read:

12

13

ARTICLE 22

14

MEDICAL CANNABIS ACT

15

1           **35-7-2201. Short title.**

2

3 This article is known and may be cited as the "Medical  
4 Cannabis Act".

5

6           **35-7-2202. Definitions.**

7

8           (a) As used in this article:

9

10                   (i) "Delivery" means a transaction in which  
11 medical cannabis is transferred from a medical cannabis  
12 producer to a registrant in Wyoming;

13

14                   (ii) "Medical cannabis" means cannabis plant  
15 material or products thereof:

16

17                           (A) Containing an amount of THC greater than  
18 three-tenths of one percent (0.3%), and less than fifteen  
19 percent (15%), on a dry weight basis;

20

21                           (B) Containing no other controlled  
22 substance; and

23

1                   (C) Possessed by a medical cannabis producer  
2 or by registrant when obtained from a medical cannabis  
3 producer.

4

5                   (iii) "Medical cannabis producer" means a person  
6 licensed by the department of agriculture to grow, test,  
7 process or deliver medical cannabis;

8

9                   (iv) "Medical cannabis registration card" means a  
10 card issued by the department of health under W.S. 35-7-2209;

11

12                   (v) "Medically indicated recommendation for  
13 cannabis" means a practitioner's written recommendation for  
14 the use of medical cannabis for the treatment of a medical or  
15 psychological condition, provided the recommendation:

16

17                   (A) Identifies the medical or psychological  
18 condition for which treatment is recommended;

19

20                   (B) Specifies the dose form, THC dose amount  
21 and duration of the recommendation;

22

1                   (C) Follows an examination and consultation  
2 with the patient;

3

4                   (D) Attests that the condition has not  
5 responded adequately to other treatment options or that  
6 unacceptable deleterious side effects associated with other  
7 treatments exist; and

8

9                   (E) Does not purport to be a prescription as  
10 defined by W.S. 33-24-136(b).

11

12                   (vi) "Registrant" means the person who holds a  
13 medical cannabis registration card issued by the department  
14 of health pursuant to this article;

15

16                   (vii) "THC" means delta-9-tetrahydrocannabinol.

17

18                   **35-7-2203. Medical cannabis authorized.**

19

20 A person may grow, test, process, possess, deliver or utilize  
21 medical cannabis in compliance with the requirements of this  
22 article.

23

1           **35-7-2204. Medical cannabis producer licensing.**

2

3           (a) No person shall grow, test, process or deliver  
4 medical cannabis unless the person has obtained a medical  
5 cannabis producer license from the department of agriculture.

6

7           (b) The application for a license shall include:

8

9                   (i) The name and address of the applicant;

10

11                   (ii) The legal description of the land area and  
12 physical address where the growing, processing, testing or  
13 delivery of medical cannabis will be occurring;

14

15                   (iii) Any other information required by the  
16 department of agriculture; and

17

18                   (iv) Authorization for reasonable access by the  
19 department for random inspections related to production or  
20 processing activities.

21

1           (c) The department of agriculture shall require each  
2 applicant to attest they have not been convicted of a  
3 controlled substance felony.

4

5           (d) If the applicant has met the requirements of this  
6 section and paid any fee required, the department of  
7 agriculture shall issue the license, which shall be valid for  
8 one (1) year. The department shall implement a renewal system  
9 that ensures continuity of licensure for persons continuing  
10 to meet the requirements of this act.

11

12           (e) Licenses under this section may include more than  
13 one (1) medical cannabis production activity provided that  
14 all activities are undertaken at the same location.

15

16           **35-7-2205. Medical cannabis records.**

17

18 Licensed medical cannabis producers shall retain all records  
19 pertaining to the production and delivery of medical  
20 cannabis, including test results and copies of each  
21 registrant's card to whom medical cannabis is delivered, for  
22 three (3) years. Records shall be provided to the department  
23 of agriculture for each month's activities by the fifteenth

1 day of the following month. The department of agriculture  
2 shall provide a copy of all records received to the department  
3 of health.

4

5 **35-7-2206. Enforcement; compliance; penalties.**

6

7 (a) The department of agriculture shall perform, or  
8 cause to be performed, random testing of medical cannabis for  
9 THC levels for the purpose of determining compliance with the  
10 requirements of this article. The medical cannabis producer  
11 shall be liable for the reasonable costs of testing under  
12 this subsection.

13

14 (b) The medical cannabis producer shall test each lot  
15 or batch of medical cannabis for compliance with the  
16 requirements of this article prior to delivery and the results  
17 shall accompany each delivery.

18

19 (c) The department of agriculture is authorized, upon  
20 presentation of proper identification, to enter any  
21 licensee's property, during reasonable times, to test any  
22 medical cannabis present for compliance with this article and  
23 the rules promulgated to effectuate this article. The

1 department may communicate with law enforcement regarding  
2 facts and circumstances involving the department's sampling  
3 and test results, which law enforcement may use in obtaining  
4 a search warrant.

5

6 (d) If the department of agriculture is denied entry  
7 onto a licensee's property under subsection (c) of this  
8 section, the department shall notify the appropriate law  
9 enforcement agency. The denial shall be considered probable  
10 cause of a violation of this section.

11

12 (e) No employee of the department of agriculture or law  
13 enforcement officer shall be subject to liability for an  
14 administrative or enforcement action taken pursuant to this  
15 section provided probable cause existed for the action.  
16 Nothing in this subsection derogates any other defense or  
17 immunity of an employee of the department of agriculture or  
18 law enforcement officer.

19

20 **35-7-2207. Rulemaking authority.**

21



1           (a) The department of agriculture shall adopt rules  
2 necessary to implement the provisions of this article  
3 including:

4

5           (i) Requirements for testing medical cannabis to  
6 determine THC level compliance prior to delivery and for  
7 random testing applications;

8

9           (ii) Confiscation and destruction procedures for  
10 cannabis used, possessed or delivered in violation of this  
11 article;

12

13           (iii) Assessment of fees that are commensurate  
14 with the costs of the department's activities in licensing  
15 and testing of medical cannabis;

16

17           (iv) Any other procedures necessary to carry out  
18 this article.

19

20           **35-7-2208. Medical cannabis account created, purposes,**  
21 **disposition of fees.**

22

1 There is created an account entitled the "medical cannabis  
2 account". The account shall receive all fees assessed as  
3 provided in this article. Funds in the account are  
4 continuously appropriated to the department of agriculture  
5 and the department of health as needed for the administration  
6 and enforcement of this article.

7

8 **35-7-2209. Medical cannabis registration cards.**

9

10 (a) The department of health shall issue a medical  
11 cannabis registration card to a person who:

12

13 (i) Is at least eighteen (18) years of age;

14

15 (ii) Is a resident of Wyoming;

16

17 (iii) Has a medically indicated recommendation for  
18 cannabis submitted by a practitioner;

19

20 (iv) Pays a fee to the department as specified in  
21 subsection (e) of this section; and

22

1           (v) Submits an application to the department in a  
2 format created by the department that contains:

3

4           (A) The individual's name and address;

5

6           (B) A copy of the individual's valid photo  
7 identification; and

8

9           (C) Any other information the department  
10 considers necessary to implement this article.

11

12       (b) The department of health shall issue a cannabis  
13 product registration card to a parent, guardian or legal  
14 representative who:

15

16           (i) Is at least eighteen (18) years of age;

17

18           (ii) Is a Wyoming resident;

19

20           (iii) Possesses a medically indicated  
21 recommendation for cannabis submitted by a practitioner on  
22 behalf of their child, ward or principal;

23

1           (iv) Pays the department a fee as provided in  
2 subsection (e) of this section; and

3

4           (v) Submits an application to the department on a  
5 form created by the department, which contains:

6

7                   (A) The parent's, guardian's or legal  
8 representative's name and address;

9

10                   (B) The name and address of the person for  
11 which the medical cannabis is being applied for;

12

13                   (C) A copy of the valid photo identification  
14 for persons named in subparagraphs (A) and (B) of this  
15 paragraph;

16

17                   (D) The legal authority possessed to act on  
18 behalf of the other person; and

19

20                   (E) Any other information the department  
21 considers necessary to implement this article.

22

1           (c) The department of health shall maintain a registry  
2 of all registrants.

3

4           (d) The department of health shall promulgate rules and  
5 regulations necessary to implement this article.

6

7           (e) The department of health shall establish fees  
8 commensurate with the costs of the department's activities  
9 required under this section, providing a registrant's annual  
10 fee shall not exceed two hundred dollars (\$200.00). All fees  
11 received shall be deposited in the "medical cannabis  
12 account".

13

14           (f) A registration card issued under subsection (a) or  
15 (b) of this section is valid for one (1) year and is renewable  
16 if, at the time of renewal, the registrant meets the  
17 requirements of subsection (a) or (b) of this section. A card  
18 issued pursuant to subsection (b) of this section remains  
19 valid after the minor reaches the age of majority until the  
20 card expires or is replaced by a card issued pursuant to  
21 subsection (a) of this section or renewed under subsection  
22 (b) of this section.

23

1           (h) The department of health shall maintain a public  
2 database of registrants and a public database of  
3 practitioners recommending medical cannabis.

4

5           **35-7-2210. Criminal and civil penalties for medical**  
6 **cannabis.**

7

8           (a) Notwithstanding any other provision of law, a  
9 medical cannabis producer who delivers or possesses medical  
10 cannabis or a registrant who possesses or uses medical  
11 cannabis obtained from a medical cannabis producer is not  
12 subject to the penalties described in this chapter if the  
13 medical cannabis is in an amount and form that is reasonably  
14 consistent with the associated authorization provided under  
15 this article.

16

17           (b) Notwithstanding any other provision of law, a  
18 person possessing a similar authorization as may be granted  
19 under W.S. 35-7-2209, but issued by another state or similar  
20 governing jurisdiction, and who possesses or uses medical  
21 cannabis is not subject to the penalties described in this  
22 chapter if the medical cannabis is in an amount and form that

1 is reasonably consistent with the associated authorization  
2 provided under this article.

3

4 (c) Any person who negligently violates any provision  
5 of this article is guilty of a misdemeanor punishable by a  
6 fine of not more than seven hundred fifty dollars (\$750.00),  
7 imprisonment for not more than six (6) months, or both.

8

9 (d) Any person who knowingly and intentionally violates  
10 any provision of this article may be prosecuted as though  
11 they were not licensed as a medical cannabis producer, or as  
12 a registrant.

13

14 (e) Any person who knowingly and intentionally violates  
15 any provision of this article or regulation promulgated  
16 pursuant to this act shall be ineligible for licensure or  
17 registration under this article.

18

19 **35-7-2211. Affirmative defense for possession or**  
20 **cultivation of marijuana.**

21

22 It is an affirmative defense to a prosecution by the state of  
23 Wyoming for the possession, cultivation or delivery of

1 marihuana that the defendant is a licensed medical cannabis  
2 producer or registrant and is engaging in activities as  
3 authorized by this article and in accordance with their  
4 license or registration.

5

6 **Section 2.** W.S. 35-7-1063(a) by creating a new  
7 paragraph (iv) is amended to read:

8

9 **35-7-1063. Exceptions to provisions.**

10

11 (a) The provisions and penalties of this chapter shall  
12 not apply to:

13

14 (iv) Medical cannabis when authorized consistent  
15 with the Medical Cannabis Act.

16

17 **Section 3.** Not later than June 30, 2019, the department  
18 of agriculture and the department of health shall promulgate  
19 rules necessary to implement this act.

20

21 **Section 4.**

22



1           (a) Except as provided in subsection (b) of this  
2 section, this act is effective July 1, 2019.

3

4           (b) Section 3 of this act is effective immediately upon  
5 completion of all acts necessary for a bill to become law as  
6 provided by Article 4, Section 8 of the Wyoming Constitution.

7

8

(END)