



Providing nonpartisan legal, research, and fiscal analysis services to the Minnesota Senate

S.F. No. 4782 – Office of Cannabis Management Agency Bill (1st Engrossment)

Author: Senator Lindsey Port

Prepared by: Olivia Syverson, Senate Counsel (651/296-4397)

Date: March 25, 2024

Sections 1 through 9 makes conforming changes related to eliminating the distinction between medical cannabis flower and other cannabis flower. Makes conforming changes by replacing the term commissioner with the term office to reflect the change in regulation of edible cannabinoid products from the Department of Health to the Office of Cannabis Management. Allows an industrial hemp grower to sell hemp to a cannabis or hemp business.

Section 10 removes the statement that medical cannabis flower and medical cannabinoid products must not be included in the formulary established for medical assistance coverage.

Section 11 and 12 expands the tax subtraction to apply to expenses related to hemp that are not allowed under section 280E of the Internal Revenue Code.

Section 13 states that “taxable cannabis product” does not include a product exempt from tax under section 295.81, subdivision 4, paragraph (b).

Section 14 makes additional conforming changes.

Section 15 states that the sale of a taxable cannabis product to a government entity is not exempt from the taxation requirements.

Section 16 makes a conforming change related to products exempt from tax under section 295.81, subdivision 4, paragraph (b).

Section 17 makes additional conforming changes related to the removal of medical cannabis flower.

Section 18 makes additional conforming changes.

Section 19 amends the definition of cannabinoid product.

Section 20 removes the references to medical cannabis businesses to conform with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 21 makes additional conforming changes.

Section 22 amends the definition of “cannabis industry” to specifically refer to cannabis plants and removes the requirement that the cannabis flower and cannabis products be subject to regulation under the chapter.

Section 23 amends the definition of “cannabis plant” to say that the term applies to parts of the plant that are growing or have not been harvested, specify that the term includes plants at various stages of development, and does not include “hemp.” The term “hemp” is not defined.

Section 24 makes additional conforming changes.

Section 25 creates a definition for the term “endorsement” and defines the term as an authorization from the Office of Medical Cannabis to conduct a specified operation activity.

Section 26 makes additional conforming changes.

Section 27 amends the definition of “registered designated caregiver” to remove reference to a disqualification for a criminal offense, replace references to the Division of Medical Cannabis with “Office of Cannabis Management,” removes references to the medical component of cannabis flower and cannabinoid products, and removes references to a medical cannabis retailer.

Section 28 amends the definition of “registry” or “registry program” to add a reference to medical cannabis before patient registry, replaces the word “patients” with “each person,” removes the designation of medical before referring to cannabis flower and cannabinoid products, and replaces references to medical cannabis businesses with a reference to the medical endorsement.

Section 29 makes conforming changes.

Section 30 adds the authority to order a person or business to recall cannabis products if the product manufactured or produced represents a risk of causing a serious adverse incident.

Section 31 amends the transfer date of the medical cannabis program from the Department of Health to the Office of Cannabis Management to take place on the later of March 1, 2025, or the adoption of rules pertaining to medical cannabis. Currently the transfer is scheduled to take place on March 1, 2025.

Section 32 replaces the requirement that notice of a proposed rule adopted through the expedited rulemaking process include publication of the proposed rule in the State Register with a requirement that the office publish intent to adopt a rule. Exempts the Office of Cannabis Management from the general requirement that an agency adopt rules within 18 months of being given the authority to adopt rules by the legislature.

Section 33 authorizes the director of the Office of Cannabis Management to employ deputy directors, apply for and accept grants, apply for and receive federal money, and make contracts.

Section 34 removes the authority of the Office of Cannabis Management to assess penalties on a person who violates food handling provisions in a manner established in statutes applying to the Department of Agriculture. The office would retain the ability to impose licensing sanctions and otherwise provided in law.

Section 35 eliminates the limit on the amount of cannabis a person enrolled in the medical cannabis patient registry program can possess if the flower or product has patient-specific labeling.

Section 36 removes the reference to medical cannabis processor licenses in conformity with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 37 removes the references to medical cannabis businesses to conform with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 38 removes the reference to medical cannabis business to conform with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 39 eliminates the restriction that a social equity applicant can only transfer a license to another social equity applicant. Establishes that the authorization to transfer a license subject to the prior written approval of the office does not apply to (1) a temporary license or (2) a license held by a social equity applicant during the first three years from the date the license is issued. Also states that during the first three years that a social equity applicant holds a license, that social equity applicant may only transfer the license to another social equity applicant. States that a social equity applicant may transfer a license to any entity three years after the license is issued. The section does not address the interaction between the prohibition on the transfer of a license held by a social equity applicant in the first three years of issuance and the authorization for some transfers. Clarifies that the relocation of a licensed cannabis business includes the relocation of an operational location.

Section 40 allows the office to establish a process for preapproval of certain license applicants. Preapproval would not authorize a person or business to cultivate, manufacture, or sell cannabis flower or cannabis products.

1. Authorizes the Office of Cannabis Management to create a preapproval process for a limited number of licenses. Preapproval is referred to as a temporary license. Limits the number of licenses that can be preapproved by license category. Establishes that preapproval is effective for 18 months.
2. Establishes that only social equity applicants are eligible for preapproval. Requires an applicant for preapproval to complete an application and pay an application fee. Provides that, as part of the application, the office must verify that the applicant qualifies as a social equity applicant. Establishes that the office must not require an applicant to possess or own any property before issuing preapproval to the person.
3. Requires the office to announce the beginning of the application process for preapproval at least 14 days before beginning to accept applications. Requires the office to specify the number of preapprovals available by license category and the timing of the application period. Requires the office to accept applications for 30 days during an application period. Authorizes the office to reject certain applications and to request additional information from an applicant.

4. Directs the office to conduct a lottery if the number of eligible applicants exceeds the number of available preapprovals. Authorizes the office to remove an applicant from the lottery under certain circumstances.
5. Provides that an applicant who receives preapproval may take steps to establish a business, but cannot begin business operations related to cultivating, processing, or selling cannabis. Prohibits a person who receives preapproval from transferring the ownership interest in the business or entity that received preapproval, or amending the ownership in a manner that would result in the business no longer qualifying as a social equity applicant.
6. Authorizes the office to revoke preapproval if the person obtained preapproval through fraud, engages in certain conduct after receiving preapproval, or fails to convert preapproval into a license within 18 months.
7. Requires the office to convert preapproval into a license after the office adopts rules regulating the operation of cannabis businesses and the office determines that the person or entity holding preapproval has not committed a violation of the chapter. Prohibits the office from converting preapproval into a license if the ownership of a business with preapproval has changed and the business did not provide the required notice or if the business does not comply with local zoning and land use laws. Establishes that a license issued after the preapproval process expires 18 months after conversion of preapproval into a license. Under current law, licenses do not expire, but must be renewed annually (a renewal fee is charged every year after the first 24 months).
8. An applicant who is not issued a preapproval or who is not entered into the lottery may request a review of the person's application materials within seven days of being notified that an application does not meet minimum requirements. Requires the office to inform an applicant of any reason for determining that the applicant does not qualify. Requires data submitted by applicants to be classified as protected consistent with chapter 13. "Protected" data is not defined. Authorizes certain applicants to request reconsideration by the director.
9. Authorizes applicants who are not selected for preapproval through the lottery to request that the application be retained for any future lottery. Directs the office to retain such an application for one year. Authorizes the office to contact an applicant to request additional information. Requires an applicant to pay an additional fee and update the information submitted to be included in subsequent lotteries.

Section 41 eliminates the requirement that a local unit of government certify that a proposed cannabis business meets local zoning ordinances and the process for that notice. Provides that the office can only investigate complaints by local governments that are made under chapter 342.

Section 42 removes the requirement that all applications contain certain information and permits the office to determine which elements must be included. Provides that an applicant is not required to submit information related to the physical premises where the business will operate. Removes the requirement that the office send notice to a local unit of government and seek confirmation that a proposed business meets local zoning requirements. Provides that the office can revoke a license if the licensee has not made good faith efforts to obtain an endorsement within 18 months unless the office issues an extension.

Section 43 expands the requirements related to background checks to license holders in addition to applicants. Makes other technical changes.

Section 44 specifies that the felony convictions that can disqualify an individual from receiving or holding a cannabis business license may include controlled substance offenses in the first or second degree that do not involve cannabis, human trafficking, labor trafficking, and financial crimes.

Section 45 allows the office to determine whether any civil or regulatory violations determined by another government entity disqualify a person from holding or receiving a license or from working for a licensee. Authorizes the office to access investigative and regulatory data on an applicant.

Section 46 requires all employees of a license holder to undergo a criminal history check. Establishes offenses that would disqualify a person from working for a cannabis business.

Section 47 amends the requirements to qualify as a social equity applicant to include all military veterans. Eliminates the authorization to classify an emerging farmer, as defined in section 17.055, subdivision 1, as a social equity applicant and replaces that with a current farmer or aspiring cannabis farmer who faces barriers to education or employment. Establishes that, to qualify as a social equity applicant, at least 65% of the controlling ownership of a business entity must qualify as a social equity applicant.

Section 48 requires the office to create a classification of social equity licenses that are available only to social equity applicants. Requires the office to classify any license held by a person who qualifies as a social equity applicant to be a social equity license.

Section 49 removes the requirement that the Office of Cannabis Management score applications for a cannabis license. Removes consideration of a person's status as a social equity applicant or veteran from the components considered in reviewing an application. Removes the authority of the office to award additional points to an application if the business will serve an underrepresented market or if the person demonstrates the effect of cannabis prohibition on that person. Requires the office to establish the minimum qualifications in each category, replacing the requirement that the office post the basis for awarding points publicly. Removes the requirement that the office issue licenses to applicants with the highest score in an application and the requirement that the office break any ties with a lottery.

Section 50 authorizes the office to establish as many licensing periods as the office determines are appropriate. Authorizes the office to issue up to the maximum number of licenses specified in this subdivision each licensing period and authorizes the office to increase that maximum after 24 months. Requires the office to utilize a lottery if the number of eligible applicants exceeds the number of available licenses. Authorizes the office to issue as many licenses as the office deems necessary if the license type is not specified in this section, but does not require the office to issue any such licenses. Requires persons holding a cannabis microbusiness license or cannabis mezzobusiness license to earn at least two endorsements within 18 months to retain a license. Endorsements include cultivation, manufacturing, retail sale, retail sale to medical patients, and on-site consumption. Provides that the office is not required to issue the number of licenses specified in statute. Identifies that, in each licensing period, the office may issue up to a specified number of social equity license and a specified number of licenses available to all applicants.

Section 51 authorizes a business registered to sell edible cannabinoid products pursuant to section 151.72 to convert the registration into a lower-potency hemp edible retailer or lower-potency hemp edible manufacturer license. Requires an entity seeking conversion to submit an application and pay a fee. Authorizes businesses registered to sell edible cannabinoid products to continue the sale for up to 30 days after the office begins to accept applications without converting the registration to a license, except that an entity that submits an application can continue to sell edible cannabinoid products until the office makes a decision on the application.

Section 52 permits the Office of Cannabis Management to inspect the place of business of any entity participating in the cannabis industry or hemp consumer industry. Currently, the office can only inspect licensed entities.

Section 53 allows the representative of any business participating in the cannabis industry or hemp consumer industry to accompany the representative from the Office of Cannabis Management on any inspection. Currently, the authorization applies to licensed businesses.

Section 54 authorizes the office to conduct an inspection of the place of business of any entity participating in the cannabis industry or hemp consumer industry. Requires the office to prioritize inspections of places that pose danger to the public or customers. Requires the office to promptly inspect the place of business of any person or business participating in the cannabis industry or hemp consumer industry that is the subject of complaint by a local unity of government. Currently, the office can only inspect licensed entities.

Section 55 authorizes the Office of Cannabis Management to issue administrative orders to any person or business participating in the cannabis industry or hemp consumer industry and impose a monetary penalty of up to \$10,000 on the person or business.

Section 56 requires a business to register with a local government before receiving a retail endorsement. Current law requires the business to have a retail endorsement before receiving local registration. Requires a local unit of government to issue an application to a person whose application has been approved by the office. Current law requires the person to have a valid license. Removes the authorization for a local unit of government to inspect the products that will be offered for sale and replaces that with the authority to perform an inspection to ensure compliance with any applicable local ordinance. Removes the requirement that local units of government perform annual compliance checks. Limits compliance checks to local ordinances.

Section 57 removes references to the types of individual authorized to purchase cannabis on behalf of a patient enrolled in the registry program (registered designated caregiver, parent, legal guardian, or spouse) and replaces that with a reference to any person enrolled in the registry program.

Section 58 removes the requirement that cannabis flower and related products used by a patient enrolled in the registry program be designated as medical products, consistent with the elimination of the definitions for “medical cannabis flower” and “medical cannabinoid products.”

Section 59 authorizes a cannabis researcher to apply for a cannabis microbusiness license to conduct cannabis crop research. Restricts the tasks the license holder can perform to prohibit the sale of cannabis flower or cannabis products.

Section 60 authorizes the Office of Cannabis Management to reduce the space in which a cannabis microbusiness can cultivate cannabis provided the reduction does not fall below 5,000 square feet for indoor cultivation and one-half acre for outdoor cultivation. Currently the office can only increase the space.

Section 61 removes references to medical cannabis flower and medical cannabinoid products from the description of actions a mezzobusiness license holder can perform.

Section 62 removes the reference to a medical cannabis retailer license in the section addressing cannabis mezzobusinesses consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 63 removes the reference to a medical cannabis cultivator license in the section addressing cannabis cultivators consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 64 removes the reference to a medical cannabis cultivator and processor licenses in the section addressing cannabis manufacturers consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 65 removes the reference to a medical cannabis retailer license in the section addressing cannabis retailers consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 66 removes the reference to medical cannabis licenses in the section addressing cannabis transporters consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 67 removes the reference to medical cannabis licenses in the section addressing cannabis testing facilities consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 68 removes the references to medical cannabis flower and medical cannabinoid products in the section addressing cannabis events consistent with the elimination of those terms.

Section 69 removes the reference to medical cannabis retailers in the section addressing the actions a cannabis delivery services can perform consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 70 removes the reference to medical cannabis retailers in the section addressing the types of licenses a cannabis delivery services can hold consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 71 creates a medical cannabis retail endorsement. Requires the office to issue a medical cannabis retail endorsement to a cannabis business if the business submits an application, has at least one employee with either a cannabis consultant certificate or a licensed pharmacist, and meets any other requirements established by the office. Establishes that a medical cannabis retail endorsement authorizes the holder to sell or distribute cannabis and related products that are approved by the office and associated paraphernalia. Requires a pharmacist or person with a cannabis consultant certificate to confirm a patient's enrollment in the registry program, verify that the person is the patient or other person authorized to receive the cannabis flower or related products, consult with the person, apply a patient-specific label, and provide the patient with any other information required by the office before distribution. Requires the patient to consult with a pharmacist or cannabis consultant under certain circumstances. Eliminates the limit of a 90-day supply on the amount of cannabis and related products that can be provided to a patient. Makes other conforming changes. Provides that the section is effective either March 1, 2025, or upon the adoption of rules pertaining to medical cannabis, whichever is later.

Section 72 prohibits a person to sell, give, furnish, or in any way procure for another person lower-potency hemp edibles for the use of an obviously impaired person.

Section 73 provides that a person or business holding a medical cannabis combination business license is prohibited from owning or operating any other cannabis business or hemp business. Limits a license holder to one medical cannabis combination business license. Makes conforming changes.

Sections 74 to 78 removes references to the Division of Medical Cannabis.

Section 80 removes references to medical cannabis and related products and to medical cannabis businesses consistent with the elimination of those terms and licenses. Removes the requirement that a registered designated caregiver undergo a criminal background check.

Section 81 removes references to the Division of Medical Cannabis.

Section 82 removes the authorization to add allowable forms of medical cannabinoid products.

Section 83 removes references to the Division of Medical Cannabis.

Section 84 removes references to the Division of Medical Cannabis.

Section 85 removes references to the Division of Medical Cannabis.

Section 86 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 87 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 88 includes persons, other than patients, who are enrolled in registry program in the presumption that possession of cannabis or related products is authorized. Makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 89 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms. Removes the protection for pharmacists acting in accordance with sections related to the registry program.

Section 90 includes persons, other than patients, who are enrolled in registry program in the protections related to education and housing.

Section 91 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 92 includes persons, other than patients, who are enrolled in registry program in the protections related to employment.

Section 93 includes persons, other than patients, who are enrolled in registry program in the protections related to custody, visitation, and parenting time.

Section 94 includes persons, other than patients, who are enrolled in registry program in the authorization to bring an action for damages.

Section 95 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 96 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms and removes references to the Division of Medical Cannabis.

Section 97 removes references to medical cannabis business licenses consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 98 removes references to medical cannabis business licenses consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Section 99 removes a reference to a medical cannabis license consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement. Replaces the requirement that labels identify a maximum safe dosage with a requirement that they include information on the usage of cannabis and hemp-derived consumer products.

Section 100 removes a reference to medical cannabis licenses and medical flower or products consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement and elimination of terms referencing medical. Replaces the requirement that labels identify a maximum safe dosage with a requirement that they include information on the usage of the product.

Section 101 makes conforming changes related to the elimination of “medical cannabis flower” and “medical cannabinoid products” as defined terms.

Section 102 removes references to medical cannabis business licenses consistent with the replacement of medical cannabis licenses with a medical cannabis endorsement.

Sections 103 to 114 amend the transfer date of the medical cannabis program from the Department of Health to the Office of Cannabis Management to take place on the later of March 1, 2025, or the adoption of rules pertaining to medical cannabis. Currently the transfer is scheduled to take place on March 1, 2025.

Section 115 provides for the transfer of employees of the Department of Health who regulate the sale of edible cannabinoid products and other products regulated under section 151.72 to the Office of Cannabis Management.

Section 116 directs the Department of Health to transfer data regarding the regulation of the sale of products regulated under section 151.72 to the Office of Cannabis Management.