



General Assembly

**Amendment**

February Session, 2002

LCO No. 2849

\*HB0552502849HD0\*

Offered by:

REP. ABRAMS, 83<sup>rd</sup> Dist.

To: House Bill No. 5525

File No. 133

Cal. No. 96

**"AN ACT CONCERNING EXPERIMENTAL DRUG USE BY  
PERSONS WITH MENTAL RETARDATION."**

1 After line 10 insert sections 2 to 12, inclusive, as follows:

2 "Sec. 2. (NEW) (*Effective October 1, 2002*) As used in sections 2 to 10,  
3 inclusive, of this act, unless the context otherwise requires:

4 (1) "Adequate supply" means an amount of marijuana jointly  
5 possessed between the qualifying patient and the primary caregiver  
6 that is not more than is reasonably necessary to assure the  
7 uninterrupted availability of marijuana for the purpose of alleviating  
8 the symptoms or effects of a qualifying patient's debilitating medical  
9 condition, but shall not exceed three mature marijuana plants, four  
10 immature marijuana plants and one ounce of usable marijuana per  
11 each mature plant;

12 (2) "Debilitating medical condition" means (A) cancer, glaucoma,  
13 positive status for human immunodeficiency virus or acquired  
14 immune deficiency syndrome, or the treatment of any such conditions,

15 including, but not limited to, chemotherapy, (B) a chronic or  
16 debilitating disease or medical condition, or the treatment thereof, that  
17 produces one or more of the following: (i) Cachexia or wasting  
18 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures, including,  
19 but not limited to, those characteristic of epilepsy; or (v) severe and  
20 persistent muscle spasms, including, but not limited to, those  
21 characteristic of multiple sclerosis or Crohn's disease, or (C) any other  
22 medical condition approved by the Department of Public Health,  
23 pursuant to regulations adopted by the Commissioner of Public Health  
24 in accordance with chapter 54 of the general statutes, in response to a  
25 request from a physician or potentially qualifying patient;

26 (3) "Marijuana" has the same meaning as provided in section 21a-  
27 240 of the general statutes;

28 (4) "Medical use" means the acquisition, possession, cultivation, use,  
29 distribution or transportation of marijuana or paraphernalia relating to  
30 marijuana to alleviate the symptoms or effects of a qualifying patient's  
31 symptoms, but does not include any such use of marijuana by any  
32 person other than the qualifying patient. For the purposes of this  
33 subdivision, "distribution" means the transfer of marijuana and  
34 paraphernalia relating to marijuana from the primary caregiver to the  
35 qualifying patient;

36 (5) "Physician" means a person who is licensed under the provisions  
37 of chapter 370 of the general statutes and authorized by subsection (a)  
38 of section 21a-246 of the general statutes, as amended by this act, to  
39 possess and supply marijuana for medical use, but does not include a  
40 physician assistant, as defined in section 20-12a of the general statutes;

41 (6) "Primary caregiver" means a person, other than the qualifying  
42 patient and the qualifying patient's physician, who is eighteen years of  
43 age or older and has agreed to undertake responsibility for managing  
44 the well-being of the qualifying patient with respect to the medical use  
45 of marijuana, provided, in the case of a minor or an adult lacking legal  
46 capacity, such person shall be a parent, guardian or person having

47 legal custody of such minor or adult;

48 (7) "Qualifying patient" means a person who has been diagnosed by  
49 a physician as having a debilitating medical condition;

50 (8) "Usable marijuana" means the dried leaves and flowers of the  
51 marijuana plant, and any mixtures or preparations thereof, that are  
52 appropriate for the medical use of marijuana, but does not include the  
53 seeds, stalks and roots of the plant; and

54 (9) "Written certification" means a statement signed by the  
55 qualifying patient's physician stating that, in the physician's  
56 professional opinion, the qualifying patient has a debilitating medical  
57 condition and the potential benefits of the medical use of marijuana  
58 would likely outweigh the health risks for the qualifying patient.

59 Sec. 3. (NEW) (*Effective October 1, 2002*) (a) The medical use of  
60 marijuana by a qualifying patient who is eighteen years of age or older  
61 is permitted if:

62 (1) The qualifying patient has been diagnosed by a physician as  
63 having a debilitating medical condition;

64 (2) The qualifying patient's physician has issued a written  
65 certification to the qualifying patient for the medical use of marijuana;  
66 and

67 (3) The amount of marijuana possessed by the qualifying patient  
68 and the primary caregiver for medical use does not exceed an adequate  
69 supply.

70 (b) The medical use of marijuana by a qualifying patient who is  
71 under eighteen years of age is permitted if:

72 (1) The conditions set forth in subdivisions (1) to (3), inclusive, of  
73 subsection (a) of this section are satisfied;

74 (2) The qualifying patient's physician has explained the potential

75 risks and benefits of the medical use of marijuana to the qualifying  
76 patient and to a parent, guardian or person having legal custody of the  
77 qualifying patient; and

78 (3) A parent, guardian or person having legal custody of the  
79 qualifying patient agrees in writing to (A) allow the medical use of  
80 marijuana by the qualifying patient, (B) serve as the qualifying  
81 patient's primary caregiver, and (C) control (i) the acquisition of the  
82 marijuana, and (ii) the dosage and the frequency of the medical use of  
83 marijuana by the qualifying patient.

84 (c) Subsections (a) and (b) of this section do not apply to:

85 (1) Any medical use of marijuana that endangers the health or well-  
86 being of another person; and

87 (2) The medical use of marijuana (A) in a school bus or a motor bus,  
88 as defined respectively in section 14-1 of the general statutes, or in any  
89 moving vehicle, (B) in the workplace, (C) on any school grounds, or  
90 (D) at any public park, public beach, public recreation center or youth  
91 center or any other place open to the public.

92 (d) A qualifying patient shall have one primary caregiver at any  
93 given time. A primary caregiver may not be responsible for the care of  
94 more than one qualifying patient at any given time. The medical use of  
95 marijuana by a primary caregiver who is registered in accordance with  
96 subsection (b) of section 4 of this act is permitted on behalf of a  
97 qualifying patient, provided the amount of such marijuana shall not  
98 exceed an adequate supply.

99 (e) Any written certification for the medical use of marijuana issued  
100 by a physician under this section shall be valid for a period not to  
101 exceed one year from the date such written certification is signed by  
102 the physician.

103 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) Any physician who  
104 issues a written certification for the medical use of marijuana shall

105 register with the Department of Public Safety the name, address and  
106 patient identification number, if any, of the qualifying patient who is  
107 issued such written certification and shall provide such other  
108 identifying information concerning the qualifying patient as may be  
109 required by the department.

110 (b) Each qualifying patient who is issued a written certification for  
111 the medical use of marijuana, and the primary caregiver of such  
112 qualifying patient, shall register with the Department of Public Safety.  
113 Such registration shall be effective until the expiration of the written  
114 certification issued by the physician. The qualifying patient and the  
115 primary caregiver shall provide sufficient identifying information, as  
116 determined by the department, to establish the personal identity of the  
117 qualifying patient and the primary caregiver. The qualifying patient or  
118 the primary caregiver shall report any change in such information to  
119 the department within five business days of such change. The  
120 department shall issue a registration certificate to the qualifying  
121 patient and may charge a reasonable fee, not to exceed twenty-five  
122 dollars, for a registration under this subsection.

123 (c) Upon the request of a law enforcement agency, the Department  
124 of Public Safety shall verify whether a qualifying patient or a primary  
125 caregiver has registered with the department in accordance with  
126 subsection (b) of this section and may provide reasonable access to  
127 registry information obtained under this section for law enforcement  
128 purposes. Except as provided in this subsection, information obtained  
129 under this section shall be confidential and shall not be subject to  
130 disclosure under the Freedom of Information Act, as defined in section  
131 1-200 of the general statutes, as amended.

132 Sec. 5. (NEW) (*Effective October 1, 2002*) The Commissioner of Public  
133 Safety may adopt regulations, in accordance with chapter 54 of the  
134 general statutes, to establish (1) a required form for written  
135 certifications for the medical use of marijuana issued by physicians  
136 under section 3 of this act, and (2) requirements for registrations under  
137 section 4 of this act.

138 Sec. 6. (NEW) (*Effective October 1, 2002*) Nothing in sections 2 to 10,  
139 inclusive, of this act shall be construed to require health insurance  
140 coverage for the medical use of marijuana.

141 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) A qualifying patient or a  
142 primary caregiver may assert the medical use of marijuana as an  
143 affirmative defense to any prosecution involving marijuana, or  
144 paraphernalia relating to marijuana, under chapter 420b of the general  
145 statutes, provided the qualifying patient or the primary caregiver has  
146 strictly complied with the requirements of sections 2 to 10, inclusive, of  
147 this act.

148 (b) No person shall be subject to arrest or prosecution solely for  
149 being in the presence or vicinity of the medical use of marijuana as  
150 permitted under sections 2 to 10, inclusive, of this act.

151 Sec. 8. (NEW) (*Effective October 1, 2002*) A physician shall not be  
152 subject to arrest or prosecution, subject to any action under section 20-  
153 13c of the general statutes, as amended, penalized in any manner or  
154 denied any right or privilege for providing a written certification for  
155 the medical use of marijuana if:

156 (1) The physician has diagnosed the qualifying patient as having a  
157 debilitating medical condition;

158 (2) The physician has explained the potential risks and benefits of  
159 the medical use of marijuana to the qualifying patient and, if the  
160 qualifying patient is under eighteen years of age, to a parent, guardian  
161 or person having legal custody of the qualifying patient;

162 (3) The written certification issued by the physician is based upon  
163 the physician's professional opinion after having completed a full  
164 assessment of the qualifying patient's medical history and current  
165 medical condition made in the course of a bona fide physician-patient  
166 relationship; and

167 (4) The physician has complied with the registration requirements

168 of subsection (a) of section 4 of this act.

169 Sec. 9. (NEW) (*Effective October 1, 2002*) Any marijuana,  
170 paraphernalia relating to marijuana, or other property seized by law  
171 enforcement officials from a qualifying patient or a primary caregiver  
172 in connection with a claimed medical use of marijuana under sections  
173 2 to 10, inclusive, of this act shall be returned to the qualifying patient  
174 or the primary caregiver immediately upon the determination by a  
175 court that the qualifying patient or the primary caregiver is entitled to  
176 the medical use of marijuana under sections 2 to 10, inclusive, of this  
177 act, as evidenced by a decision not to prosecute, a dismissal of charges  
178 or an acquittal, provided, law enforcement officials seizing live  
179 marijuana plants as evidence shall not be responsible for the care and  
180 maintenance of such plants. This section shall not apply to any  
181 qualifying patient or primary caregiver who fails to comply with the  
182 permitted scope of the medical use of marijuana under sections 2 to 10,  
183 inclusive, of this act.

184 Sec. 10. (NEW) (*Effective October 1, 2002*) (a) Any person who makes  
185 a fraudulent representation to a law enforcement official of any fact or  
186 circumstance relating to the medical use of marijuana in order to avoid  
187 arrest or prosecution under chapter 420b of the general statutes shall  
188 be guilty of a class C misdemeanor.

189 (b) Any person who makes a fraudulent representation to a law  
190 enforcement official of any fact or circumstance relating to the issuance  
191 of a written certification for the medical use of marijuana by a  
192 physician to whom section 8 of this act does not apply shall be guilty  
193 of a class A misdemeanor.

194 Sec. 11. Subsection (a) of section 21a-246 of the general statutes is  
195 repealed and the following is substituted in lieu thereof (*Effective*  
196 *October 1, 2002*):

197 (a) No person within this state shall manufacture, wholesale,  
198 repackage, supply, compound, mix, cultivate or grow, or by other  
199 process produce or prepare, controlled substances without first

200 obtaining a license to do so from the Commissioner of Consumer  
201 Protection and no person within this state shall operate a laboratory  
202 for the purpose of research or analysis using controlled substances  
203 without first obtaining a license to do so from the Commissioner of  
204 Consumer Protection, except that such activities by pharmacists or  
205 pharmacies in the filling and dispensing of prescriptions or activities  
206 incident thereto, or the dispensing or administering of controlled  
207 substances by dentists, podiatrists, physicians, veterinarians, or other  
208 persons acting under their supervision, in the treatment of patients  
209 shall not be subject to the provisions of this section, and provided  
210 laboratories for instruction in dentistry, medicine, nursing, pharmacy,  
211 pharmacology and pharmacognosy in institutions duly licensed for  
212 such purposes in this state shall not be subject to the provisions of this  
213 section except with respect to narcotic drugs and schedule I and II  
214 controlled substances. Upon application of any physician licensed  
215 pursuant to chapter 370, the Commissioner of Consumer Protection  
216 shall, without unnecessary delay, license such physician to possess and  
217 supply marijuana for [the treatment of glaucoma or the side effects of  
218 chemotherapy] medical use pursuant to sections 2 to 10, inclusive, of  
219 this act. No person without this state shall sell or supply controlled  
220 substances within the state without first obtaining a license to do so  
221 from the Commissioner of Consumer Protection, provided no such  
222 license shall be required of a manufacturer whose principal place of  
223 business is located outside the state and who is registered with the  
224 federal Drug Enforcement Agency or other federal agency, and who  
225 files a copy of such registration with the appropriate licensing  
226 authority under this chapter.

227 Sec. 12. Section 21a-253 of the general statutes is repealed and the  
228 following is substituted in lieu thereof (*Effective October 1, 2002*):

229 Any [person] qualifying patient or primary caregiver, as defined  
230 respectively in section 2 of this act, may possess or have under [his]  
231 such qualifying patient's or primary caregiver's control a quantity of  
232 marijuana less than or equal to that quantity supplied [to him]  
233 pursuant to a prescription made in accordance with the provisions of

234 section 21a-249 by a physician licensed under the provisions of chapter  
235 370 and further authorized by subsection (a) of section 21a-246, as  
236 amended by this act, by the Commissioner of Consumer Protection to  
237 possess and supply marijuana for [the treatment of glaucoma or the  
238 side effects of chemotherapy] medical use pursuant to sections 2 to 10,  
239 inclusive, of this act. The provisions of this section shall not apply to  
240 the possession or control of marijuana in a quantity that exceeds an  
241 adequate supply, as defined in section 2 of this act. "