



General Assembly

February Session, 2002

Amendment

LCO No. 4585

SB0055004585HD0

Offered by:

REP. ABRAMS, 83rd Dist.

To: Subst. Senate Bill No. 550

File No. 561

Cal. No. 466

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING THE DEVELOPMENT OF A SYSTEM FOR CHECKING ERRORS IN THE DISPENSING OF MEDICATIONS."

1 After the last section, insert the following:

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; and

70 (4) The cultivation of such marijuana occurs in a secure indoor
71 facility.

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

74 (1) The conditions set forth in subdivisions (1) to (4), inclusive, of
75 subsection (a) of this section are satisfied;

76 (2) The qualifying patient's physician has explained the potential
77 risks and benefits of the medical use of marijuana to the qualifying
78 patient and to a parent, guardian or person having legal custody of the
79 qualifying patient; and

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

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

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

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

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

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

104 the physician.

105 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) Any physician who
106 issues a written certification for the medical use of marijuana shall
107 register with the Department of Public Safety the name, address and
108 patient identification number, if any, of the qualifying patient who is
109 issued such written certification and shall provide such other
110 identifying information concerning the qualifying patient as may be
111 required by the department.

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

125 (c) Upon the request of a law enforcement agency, the Department
126 of Public Safety shall verify whether a qualifying patient or a primary
127 caregiver has registered with the department in accordance with
128 subsection (b) of this section and may provide reasonable access to
129 registry information obtained under this section for law enforcement
130 purposes. Except as provided in this subsection, information obtained
131 under this section shall be confidential and shall not be subject to
132 disclosure under the Freedom of Information Act, as defined in section
133 1-200 of the general statutes, as amended.

134 Sec. 5. (NEW) (*Effective October 1, 2002*) The Commissioner of Public
135 Safety may adopt regulations, in accordance with chapter 54 of the

136 general statutes, to establish (1) a required form for written
137 certifications for the medical use of marijuana issued by physicians
138 under section 3 of this act, and (2) requirements for registrations under
139 section 4 of this act.

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

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

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

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

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

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

164 (3) The written certification issued by the physician is based upon
165 the physician's professional opinion after having completed a full

166 assessment of the qualifying patient's medical history and current
167 medical condition made in the course of a bona fide physician-patient
168 relationship; and

169 (4) The physician has complied with the registration requirements
170 of subsection (a) of section 4 of this act.

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

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

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

196 Sec. 11. Subsection (a) of section 21a-246 of the general statutes is
197 repealed and the following is substituted in lieu thereof (*Effective*

198 *October 1, 2002*):

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

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

231 Any [person] qualifying patient or primary caregiver, as defined
232 respectively in section 2 of this act, may possess or have under [his]
233 such qualifying patient's or primary caregiver's control a quantity of
234 marijuana less than or equal to that quantity supplied [to him]
235 pursuant to a prescription made in accordance with the provisions of
236 section 21a-249 by a physician licensed under the provisions of chapter
237 370 and further authorized by subsection (a) of section 21a-246, as
238 amended by this act, by the Commissioner of Consumer Protection to
239 possess and supply marijuana for [the treatment of glaucoma or the
240 side effects of chemotherapy] medical use pursuant to sections 2 to 10,
241 inclusive, of this act. The provisions of this section shall not apply to
242 the possession or control of marijuana in a quantity that exceeds an
243 adequate supply, as defined in section 2 of this act."