



General Assembly

February Session, 2004

Raised Bill No. 5355

LCO No. 1297

01297_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 1 to 9,
2 inclusive, of this act, unless the context otherwise requires:

3 (1) "Debilitating medical condition" means (A) cancer, glaucoma,
4 positive status for human immunodeficiency virus or acquired
5 immune deficiency syndrome, or the treatment of any such conditions,
6 including, but not limited to, chemotherapy, (B) a chronic or
7 debilitating disease or medical condition, or the treatment thereof, that
8 produces one or more of the following: (i) Cachexia or wasting
9 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures; or (v)
10 severe and persistent muscle spasms, or (C) any other medical
11 condition approved by the Department of Public Health, pursuant to
12 regulations that the Commissioner of Public Health may adopt, in
13 accordance with chapter 54 of the general statutes, in response to a
14 request from a physician or potentially qualifying patient;

15 (2) "Marijuana" has the same meaning as provided in section 21a-
16 240 of the general statutes, as amended;

17 (3) "Medical use" means the acquisition and distribution, possession,
18 cultivation, use or transportation of marijuana or paraphernalia
19 relating to marijuana to alleviate the symptoms or effects of a
20 qualifying patient's symptoms, but does not include any such use of
21 marijuana by any person other than the qualifying patient. For the
22 purposes of this subdivision, "acquisition and distribution" means the
23 transfer of marijuana and paraphernalia relating to marijuana from the
24 primary caregiver to the qualifying patient;

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

30 (5) "Primary caregiver" means a person, other than the qualifying
31 patient and the qualifying patient's physician, who is eighteen years of
32 age or older and has agreed to undertake responsibility for managing
33 the well-being of the qualifying patient with respect to the medical use
34 of marijuana, provided, in the case of a minor or an adult qualifying
35 patient lacking legal capacity, such person shall be a parent, guardian
36 or person having legal custody of such minor or adult qualifying
37 patient;

38 (6) "Qualifying patient" means a person who has been diagnosed by
39 a physician as having a debilitating medical condition;

40 (7) "Usable marijuana" means the dried leaves and flowers of the
41 marijuana plant, and any mixtures or preparations thereof, that are
42 appropriate for the medical use of marijuana, but does not include the
43 seeds, stalks and roots of the plant; and

44 (8) "Written certification" means a statement signed by the
45 qualifying patient's physician stating that, in the physician's
46 professional opinion, the qualifying patient has a debilitating medical
47 condition and the potential benefits of the medical use of marijuana

48 would likely outweigh the health risks of such use to the qualifying
49 patient.

50 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient who
51 is eighteen years of age or older shall not be subject to arrest or
52 prosecution, penalized in any manner, including, but not limited to,
53 being subject to any civil penalty, or denied any right or privilege,
54 including, but not limited to, being subject to any disciplinary action
55 by a professional licensing board, for the medical use of marijuana if:

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

58 (2) The qualifying patient's physician has issued a written
59 certification to the qualifying patient for the medical use of marijuana
60 after the physician has prescribed, or determined it is not in the best
61 interest of the patient to prescribe, prescription drugs to address the
62 symptoms for which the certification is being issued;

63 (3) The amount of marijuana jointly possessed by the qualifying
64 patient and the primary caregiver for medical use does not exceed five
65 marijuana plants and one ounce of usable marijuana; and

66 (4) The cultivation of such marijuana occurs in a secure indoor
67 facility.

68 (b) A qualifying patient who is under eighteen years of age shall not
69 be subject to arrest or prosecution, penalized in any manner, including,
70 but not limited to, being subject to any civil penalty, or denied any
71 right or privilege, including, but not limited to, being subject to any
72 disciplinary action by a professional licensing board, for the medical
73 use of marijuana 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 transfer of the
84 marijuana to the qualifying patient, and (ii) the dosage and the
85 frequency of the medical use of 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 motor bus or a school bus,
90 as defined respectively in section 14-1 of the general statutes, as
91 amended, or in any moving vehicle, (B) in the workplace, (C) on any
92 school grounds, (D) at any public park, public beach, public recreation
93 center or youth center or any other place open to the public, or (E) in
94 the presence of a person under the age of eighteen. For the purposes of
95 this subdivision, "presence" means within the direct line of sight of the
96 medical use of marijuana or exposure to second-hand marijuana
97 smoke, or both.

98 (d) A qualifying patient shall have not more than one primary
99 caregiver at any time. A primary caregiver may not be responsible for
100 the care of more than one qualifying patient at any time. A primary
101 caregiver who is registered in accordance with subsection (a) of section
102 3 of this act shall not be subject to arrest or prosecution, penalized in
103 any manner, including, but not limited to, being subject to any civil
104 penalty, or denied any right or privilege, including, but not limited to,
105 being subject to any disciplinary action by a professional licensing
106 board, for the acquisition, distribution, possession, cultivation or
107 transportation of marijuana or paraphernalia related to marijuana on

108 behalf of a qualifying patient, provided the amount of any marijuana
109 so acquired, distributed, possessed, cultivated or transported, together
110 with the amount of marijuana jointly possessed by the qualifying
111 patient and the primary caregiver, shall not exceed five marijuana
112 plants and one ounce of usable marijuana. For the purposes of this
113 subsection, "distribution" or "distributed" means the transfer of
114 marijuana and paraphernalia related to marijuana from the primary
115 caregiver to the qualifying patient.

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

120 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each qualifying patient
121 who is issued a written certification for the medical use of marijuana,
122 and the primary caregiver of such qualifying patient, shall register
123 with the Department of Agriculture and Consumer Protection. Such
124 registration shall be effective until the expiration of the written
125 certification issued by the physician. The qualifying patient and the
126 primary caregiver shall provide sufficient identifying information, as
127 determined by the department, to establish the personal identity of the
128 qualifying patient and the primary caregiver. The qualifying patient or
129 the primary caregiver shall report any change in such information to
130 the department not later than five business days after such change. The
131 department shall issue a registration certificate to the qualifying
132 patient and to the primary caregiver and may charge a reasonable fee,
133 not to exceed twenty-five dollars, for a registration under this
134 subsection.

135 (b) Upon the request of a law enforcement agency, the Department
136 of Agriculture and Consumer Protection shall verify whether a
137 qualifying patient or a primary caregiver has registered with the
138 department in accordance with subsection (a) of this section and may
139 provide reasonable access to registry information obtained under this

140 section for law enforcement purposes. Except as provided in this
141 subsection, information obtained under this section shall be
142 confidential and shall not be subject to disclosure under the Freedom
143 of Information Act, as defined in section 1-200 of the general statutes.

144 Sec. 4. (NEW) (*Effective October 1, 2004*) The Commissioner of
145 Agriculture and Consumer Protection may adopt regulations, in
146 accordance with chapter 54 of the general statutes, to establish (1) a
147 required form for written certifications for the medical use of
148 marijuana issued by physicians under section 2 of this act, and (2)
149 requirements for registrations under section 3 of this act.

150 Sec. 5. (NEW) (*Effective October 1, 2004*) Nothing in sections 1 to 9,
151 inclusive, of this act shall be construed to require health insurance
152 coverage for the medical use of marijuana.

153 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient or a
154 primary caregiver may assert the medical use of marijuana as an
155 affirmative defense to any prosecution involving marijuana, or
156 paraphernalia relating to marijuana, under chapter 420b of the general
157 statutes, provided such qualifying patient or such primary caregiver
158 has strictly complied with the requirements of sections 1 to 9,
159 inclusive, of this act.

160 (b) No person shall be subject to arrest or prosecution solely for
161 being in the presence or vicinity of the medical use of marijuana as
162 permitted under sections 1 to 9, inclusive, of this act.

163 Sec. 7. (NEW) (*Effective October 1, 2004*) A physician shall not be
164 subject to arrest or prosecution, penalized in any manner, including,
165 but not limited to, being subject to any civil penalty, or denied any
166 right or privilege, including, but not limited to, being subject to any
167 disciplinary action by the Connecticut Medical Examining Board or
168 other professional licensing board, for providing a written certification
169 for the medical use of marijuana if:

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

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

176 (3) The written certification issued by the physician is based upon
177 the physician's professional opinion after having completed a full
178 assessment of the qualifying patient's medical history and current
179 medical condition made in the course of a bona fide physician-patient
180 relationship.

181 Sec. 8. (NEW) (*Effective October 1, 2004*) Any marijuana,
182 paraphernalia relating to marijuana, or other property seized by law
183 enforcement officials from a qualifying patient or a primary caregiver
184 in connection with a claimed medical use of marijuana under sections
185 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
186 the primary caregiver immediately upon the determination by a court
187 that the qualifying patient or the primary caregiver is entitled to the
188 medical use of marijuana under sections 1 to 9, inclusive, of this act, as
189 evidenced by a decision not to prosecute, a dismissal of charges or an
190 acquittal. Law enforcement officials seizing live marijuana plants as
191 evidence shall not be responsible for the care and maintenance of such
192 plants. This section does not apply to any qualifying patient or
193 primary caregiver who fails to comply with the requirements for the
194 medical use of marijuana under sections 1 to 9, inclusive, of this act.

195 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) Any person who makes a
196 fraudulent representation to a law enforcement official of any fact or
197 circumstance relating to the medical use of marijuana in order to avoid
198 arrest or prosecution under chapter 420b of the general statutes shall
199 be guilty of a class C misdemeanor.

200 (b) Any person who makes a fraudulent representation to a law

201 enforcement official of any fact or circumstance relating to the issuance
202 of a written certification for the medical use of marijuana by a
203 physician to which section 7 of this act does not apply shall be guilty of
204 a class A misdemeanor.

205 Sec. 10. Subsection (a) of section 21a-246 of the general statutes, as
206 amended by section 146 of public act 03-6 of the June 30 special
207 session, is repealed and the following is substituted in lieu thereof
208 (*Effective October 1, 2004*):

209 (a) No person within this state shall manufacture, wholesale,
210 repackage, supply, compound, mix, cultivate or grow, or by other
211 process produce or prepare, controlled substances without first
212 obtaining a license to do so from the Commissioner of Agriculture and
213 Consumer Protection and no person within this state shall operate a
214 laboratory for the purpose of research or analysis using controlled
215 substances without first obtaining a license to do so from the
216 Commissioner of Agriculture and Consumer Protection, except that
217 such activities by pharmacists or pharmacies in the filling and
218 dispensing of prescriptions, or activities incident thereto, or the
219 dispensing or administering of controlled substances by dentists,
220 podiatrists, physicians [] or veterinarians, or other persons acting
221 under their supervision, in the treatment of patients shall not be
222 subject to the provisions of this section, and provided laboratories for
223 instruction in dentistry, medicine, nursing, pharmacy, pharmacology
224 and pharmacognosy in institutions duly licensed for such purposes in
225 this state shall not be subject to the provisions of this section except
226 with respect to narcotic drugs and schedule I and II controlled
227 substances. Upon application of any physician licensed pursuant to
228 chapter 370, the Commissioner of Agriculture and Consumer
229 Protection shall without unnecessary delay, license such physician to
230 possess and supply marijuana for [the treatment of glaucoma or the
231 side effects of chemotherapy] medical use pursuant to sections 1 to 9,
232 inclusive, of this act. No person [without] outside this state shall sell or
233 supply controlled substances within [the] this state without first

234 obtaining a license to do so from the Commissioner of Agriculture and
235 Consumer Protection, provided no such license shall be required of a
236 manufacturer whose principal place of business is located outside [the]
237 this state and who is registered with the federal Drug Enforcement
238 [Agency] Administration or other federal agency, and who files a copy
239 of such registration with the appropriate licensing authority under this
240 chapter.

241 Sec. 11. Section 21a-253 of the general statutes, as amended by
242 section 146 of public act 03-6 of the June 30 special session, is repealed
243 and the following is substituted in lieu thereof (*Effective October 1,*
244 *2004*):

245 Any [person] qualifying patient or primary caregiver, as defined
246 respectively in section 1 of this act, may possess or have under [his]
247 such qualifying patient's or primary caregiver's control a quantity of
248 marijuana less than or equal to that quantity supplied [to him]
249 pursuant to a prescription made in accordance with the provisions of
250 section 21a-249, as amended, by a physician licensed under the
251 provisions of chapter 370 and further authorized by subsection (a) of
252 section 21a-246, as amended by this act, by the Commissioner of
253 Agriculture and Consumer Protection to possess and supply marijuana
254 for [the treatment of glaucoma or the side effects of chemotherapy]
255 medical use pursuant to sections 1 to 9, inclusive, of this act. The
256 provisions of this section do not apply to the possession or control of
257 marijuana in a quantity that exceeds the amount permitted for medical
258 use pursuant to sections 1 to 9, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>

Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>

Statement of Purpose:

To allow Connecticut residents with certain debilitating medical conditions to cultivate and use marijuana for medical purposes under certain circumstances and with certain restrictions when a treating physician provides a professional opinion that the benefits of the medical use of marijuana outweigh the health risks for the patient.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]