



General Assembly

Substitute Bill No. 5355

February Session, 2004

* _____ HB05355JUD__031604_____ *

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 qualifying patient lacking legal
35 capacity, such person shall be a parent, guardian or person having
36 legal custody of such qualifying patient;

37 (6) "Qualifying patient" means a person who is eighteen years of age
38 or older and has been diagnosed by a physician as having a
39 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 shall

51 not be subject to arrest or prosecution, penalized in any manner,
52 including, but not limited to, being subject to any civil penalty, or
53 denied any right or privilege, including, but not limited to, being
54 subject to any disciplinary action by a professional licensing board, for
55 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) Subsection (a) of this section does not apply to:

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

71 (2) The medical use of marijuana (A) in a motor bus or a school bus,
72 as defined respectively in section 14-1 of the general statutes, as
73 amended, or in any moving vehicle, (B) in the workplace, (C) on any
74 school grounds, (D) at any public park, public beach, public recreation
75 center or youth center or any other place open to the public, or (E) in
76 the presence of a person under the age of eighteen. For the purposes of
77 this subdivision, "presence" means within the direct line of sight of the
78 medical use of marijuana or exposure to second-hand marijuana
79 smoke, or both.

80 (c) A qualifying patient shall have not more than one primary

81 caregiver at any time. A primary caregiver may not be responsible for
82 the care of more than one qualifying patient at any time. A primary
83 caregiver who is registered in accordance with subsection (a) of section
84 3 of this act shall not be subject to arrest or prosecution, penalized in
85 any manner, including, but not limited to, being subject to any civil
86 penalty, or denied any right or privilege, including, but not limited to,
87 being subject to any disciplinary action by a professional licensing
88 board, for the acquisition, distribution, possession, cultivation or
89 transportation of marijuana or paraphernalia related to marijuana on
90 behalf of a qualifying patient, provided the amount of any marijuana
91 so acquired, distributed, possessed, cultivated or transported, together
92 with the amount of marijuana jointly possessed by the qualifying
93 patient and the primary caregiver, shall not exceed five marijuana
94 plants and one ounce of usable marijuana. For the purposes of this
95 subsection, "distribution" or "distributed" means the transfer of
96 marijuana and paraphernalia related to marijuana from the primary
97 caregiver to the qualifying patient.

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

102 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each qualifying patient
103 who is issued a written certification for the medical use of marijuana,
104 and the primary caregiver of such qualifying patient, shall register
105 with the Department of Agriculture and Consumer Protection. Such
106 registration shall be effective until the expiration of the written
107 certification issued by the physician. The qualifying patient and the
108 primary caregiver shall provide sufficient identifying information, as
109 determined by the department, to establish the personal identity of the
110 qualifying patient and the primary caregiver. The qualifying patient or
111 the primary caregiver shall report any change in such information to
112 the department not later than five business days after such change. The
113 department shall issue a registration certificate to the qualifying
114 patient and to the primary caregiver and may charge a reasonable fee,

115 not to exceed twenty-five dollars, for a registration under this
116 subsection.

117 (b) Upon the request of a law enforcement agency, the Department
118 of Agriculture and Consumer Protection shall verify whether a
119 qualifying patient or a primary caregiver has registered with the
120 department in accordance with subsection (a) of this section and may
121 provide reasonable access to registry information obtained under this
122 section for law enforcement purposes. Except as provided in this
123 subsection, information obtained under this section shall be
124 confidential and shall not be subject to disclosure under the Freedom
125 of Information Act, as defined in section 1-200 of the general statutes.

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

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

135 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient or a
136 primary caregiver may assert the medical use of marijuana as an
137 affirmative defense to any prosecution involving marijuana, or
138 paraphernalia relating to marijuana, under chapter 420b of the general
139 statutes, provided such qualifying patient or such primary caregiver
140 has strictly complied with the requirements of sections 1 to 9,
141 inclusive, of this act.

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

145 Sec. 7. (NEW) (*Effective October 1, 2004*) A physician shall not be

146 subject to arrest or prosecution, penalized in any manner, including,
147 but not limited to, being subject to any civil penalty, or denied any
148 right or privilege, including, but not limited to, being subject to any
149 disciplinary action by the Connecticut Medical Examining Board or
150 other professional licensing board, for providing a written certification
151 for the medical use of marijuana if:

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

154 (2) The physician has explained the potential risks and benefits of
155 the medical use of marijuana to the qualifying patient and, if the
156 qualifying patient lacks legal capacity, to a parent, guardian or person
157 having legal custody of the qualifying patient; and

158 (3) The written certification issued by the physician is based upon
159 the physician's professional opinion after having completed a full
160 assessment of the qualifying patient's medical history and current
161 medical condition made in the course of a bona fide physician-patient
162 relationship.

163 Sec. 8. (NEW) (*Effective October 1, 2004*) Any marijuana,
164 paraphernalia relating to marijuana, or other property seized by law
165 enforcement officials from a qualifying patient or a primary caregiver
166 in connection with a claimed medical use of marijuana under sections
167 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
168 the primary caregiver immediately upon the determination by a court
169 that the qualifying patient or the primary caregiver is entitled to the
170 medical use of marijuana under sections 1 to 9, inclusive, of this act, as
171 evidenced by a decision not to prosecute, a dismissal of charges or an
172 acquittal. Law enforcement officials seizing live marijuana plants as
173 evidence shall not be responsible for the care and maintenance of such
174 plants. This section does not apply to any qualifying patient or
175 primary caregiver who fails to comply with the requirements for the
176 medical use of marijuana under sections 1 to 9, inclusive, of this act.

177 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) Any person who makes a

178 fraudulent representation to a law enforcement official of any fact or
179 circumstance relating to the medical use of marijuana in order to avoid
180 arrest or prosecution under chapter 420b of the general statutes shall
181 be guilty of a class C misdemeanor.

182 (b) Any person who makes a fraudulent representation to a law
183 enforcement official of any fact or circumstance relating to the issuance
184 of a written certification for the medical use of marijuana by a
185 physician to which section 7 of this act does not apply shall be guilty of
186 a class A misdemeanor.

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

191 (a) No person within this state shall manufacture, wholesale,
192 repackaged, supply, compound, mix, cultivate or grow, or by other
193 process produce or prepare, controlled substances without first
194 obtaining a license to do so from the Commissioner of Agriculture and
195 Consumer Protection and no person within this state shall operate a
196 laboratory for the purpose of research or analysis using controlled
197 substances without first obtaining a license to do so from the
198 Commissioner of Agriculture and Consumer Protection, except that
199 such activities by pharmacists or pharmacies in the filling and
200 dispensing of prescriptions, or activities incident thereto, or the
201 dispensing or administering of controlled substances by dentists,
202 podiatrists, physicians [] or veterinarians, or other persons acting
203 under their supervision, in the treatment of patients shall not be
204 subject to the provisions of this section, and provided laboratories for
205 instruction in dentistry, medicine, nursing, pharmacy, pharmacology
206 and pharmacognosy in institutions duly licensed for such purposes in
207 this state shall not be subject to the provisions of this section except
208 with respect to narcotic drugs and schedule I and II controlled
209 substances. Upon application of any physician licensed pursuant to
210 chapter 370, the Commissioner of Agriculture and Consumer

211 Protection shall without unnecessary delay, license such physician to
212 possess and supply marijuana for [the treatment of glaucoma or the
213 side effects of chemotherapy] medical use pursuant to sections 1 to 9,
214 inclusive, of this act. No person [without] outside this state shall sell or
215 supply controlled substances within [the] this state without first
216 obtaining a license to do so from the Commissioner of Agriculture and
217 Consumer Protection, provided no such license shall be required of a
218 manufacturer whose principal place of business is located outside [the]
219 this state and who is registered with the federal Drug Enforcement
220 [Agency] Administration or other federal agency, and who files a copy
221 of such registration with the appropriate licensing authority under this
222 chapter.

223 Sec. 11. Section 21a-253 of the general statutes, as amended by
224 section 146 of public act 03-6 of the June 30 special session, is repealed
225 and the following is substituted in lieu thereof (*Effective October 1,*
226 *2004*):

227 Any [person] qualifying patient or primary caregiver, as defined
228 respectively in section 1 of this act, may possess or have under [his]
229 such qualifying patient's or primary caregiver's control a quantity of
230 marijuana less than or equal to that quantity supplied [to him]
231 pursuant to a prescription made in accordance with the provisions of
232 section 21a-249, as amended, by a physician licensed under the
233 provisions of chapter 370 and further authorized by subsection (a) of
234 section 21a-246, as amended by this act, by the Commissioner of
235 Agriculture and Consumer Protection to possess and supply marijuana
236 for [the treatment of glaucoma or the side effects of chemotherapy]
237 medical use pursuant to sections 1 to 9, inclusive, of this act. The
238 provisions of this section do not apply to the possession or control of
239 marijuana in a quantity that exceeds the amount permitted for medical
240 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>

JUD *Joint Favorable Subst.*