



General Assembly

February Session, 2004

Amendment

LCO No. 4365

HB0535504365HRO

Offered by:
REP. FARR, 19th Dist.

To: Subst. House Bill No. 5355 File No. 292 Cal. No. 210

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 1 to
4 9, inclusive, of this act, unless the context otherwise requires:

5 (1) "Debilitating medical condition" means cancer or the treatment
6 of cancer, including, but not limited to, chemotherapy or radiation
7 treatment;

8 (2) "Marijuana" has the same meaning as provided in section 21a-
9 240 of the general statutes, as amended;

10 (3) "Medical use" means the acquisition and distribution, possession,
11 cultivation, use or transportation of marijuana or paraphernalia
12 relating to marijuana to alleviate the symptoms or effects of a
13 qualifying patient's symptoms, but does not include any such use of
14 marijuana by any person other than the qualifying patient. For the

15 purposes of this subdivision, "acquisition and distribution" means the
16 transfer of marijuana and paraphernalia relating to marijuana from the
17 primary caregiver to the qualifying patient;

18 (4) "Physician" means a person who is licensed under the provisions
19 of chapter 370 of the general statutes, but does not include a physician
20 assistant, as defined in section 20-12a of the general statutes;

21 (5) "Primary caregiver" means a person, other than the qualifying
22 patient and the qualifying patient's physician, who is eighteen years of
23 age or older and has agreed to undertake responsibility for managing
24 the well-being of the qualifying patient with respect to the medical use
25 of marijuana, provided, in the case of a qualifying patient lacking legal
26 capacity, such person shall be a parent, guardian or person having
27 legal custody of such qualifying patient;

28 (6) "Qualifying patient" means a person who is eighteen years of age
29 or older and has been diagnosed by a physician as having a
30 debilitating medical condition;

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

35 (8) "Written certification" means a statement signed by the
36 qualifying patient's physician stating that, in the physician's
37 professional opinion, the qualifying patient has a debilitating medical
38 condition and the potential benefits of the medical use of marijuana
39 would likely outweigh the health risks of such use to the qualifying
40 patient.

41 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient shall
42 not be subject to arrest or prosecution, penalized in any manner,
43 including, but not limited to, being subject to any civil penalty, or
44 denied any right or privilege, including, but not limited to, being
45 subject to any disciplinary action by a professional licensing board, for

46 the medical use of marijuana if:

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

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

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

57 (4) The cultivation of such marijuana occurs in a secure indoor
58 facility.

59 (b) Subsection (a) of this section does not apply to:

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

62 (2) The medical use of marijuana (A) in a motor bus or a school bus,
63 as defined respectively in section 14-1 of the general statutes, as
64 amended, or in any moving vehicle, (B) in the workplace, (C) on any
65 school grounds, (D) at any public park, public beach, public recreation
66 center or youth center or any other place open to the public, or (E) in
67 the presence of a person under the age of eighteen. For the purposes of
68 this subdivision, "presence" means within the direct line of sight of the
69 medical use of marijuana or exposure to second-hand marijuana
70 smoke, or both.

71 (c) A qualifying patient shall have not more than one primary
72 caregiver at any time. A primary caregiver may not be responsible for
73 the care of more than one qualifying patient at any time. A primary
74 caregiver who is registered in accordance with subsection (a) of section
75 3 of this act shall not be subject to arrest or prosecution, penalized in

76 any manner, including, but not limited to, being subject to any civil
77 penalty, or denied any right or privilege, including, but not limited to,
78 being subject to any disciplinary action by a professional licensing
79 board, for the acquisition, distribution, possession, cultivation or
80 transportation of marijuana or paraphernalia related to marijuana on
81 behalf of a qualifying patient, provided the amount of any marijuana
82 so acquired, distributed, possessed, cultivated or transported, together
83 with the amount of marijuana jointly possessed by the qualifying
84 patient and the primary caregiver, shall not exceed five marijuana
85 plants and one ounce of usable marijuana. For the purposes of this
86 subsection, "distribution" or "distributed" means the transfer of
87 marijuana and paraphernalia related to marijuana from the primary
88 caregiver to the qualifying patient.

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

93 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each qualifying patient
94 who is issued a written certification for the medical use of marijuana,
95 and the primary caregiver of such qualifying patient, shall register
96 with the Department of Agriculture and Consumer Protection. Such
97 registration shall be effective until the expiration of the written
98 certification issued by the physician. The qualifying patient and the
99 primary caregiver shall provide sufficient identifying information, as
100 determined by the department, to establish the personal identity of the
101 qualifying patient and the primary caregiver. The qualifying patient or
102 the primary caregiver shall report any change in such information to
103 the department not later than five business days after such change. The
104 department shall issue a registration certificate to the qualifying
105 patient and to the primary caregiver and may charge a reasonable fee,
106 not to exceed twenty-five dollars, for a registration under this
107 subsection.

108 (b) Upon the request of a law enforcement agency, the Department

109 of Agriculture and Consumer Protection shall verify whether a
110 qualifying patient or a primary caregiver has registered with the
111 department in accordance with subsection (a) of this section and may
112 provide reasonable access to registry information obtained under this
113 section for law enforcement purposes. Except as provided in this
114 subsection, information obtained under this section shall be
115 confidential and shall not be subject to disclosure under the Freedom
116 of Information Act, as defined in section 1-200 of the general statutes.

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

123 (b) The Commissioner of Agriculture and Consumer Protection
124 shall collect a user fee from each qualifying patient to whom a written
125 certification for the medical use of marijuana is issued under section 2
126 of this act for the purpose of offsetting the direct and indirect costs of
127 administering the provisions of sections 1 to 9, inclusive, of this act.
128 Such user fee shall be in addition to any registration fee charged under
129 subsection (a) of section 3 of this act and shall be established by
130 regulation adopted by the commissioner in accordance with chapter 54
131 of the general statutes. All user fees collected by the commissioner
132 pursuant to this subsection shall be paid to the State Treasurer and
133 credited to the account established pursuant to section 10 of this act.

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

137 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient or a
138 primary caregiver may assert the medical use of marijuana as an
139 affirmative defense to any prosecution involving marijuana, or
140 paraphernalia relating to marijuana, under chapter 420b of the general

141 statutes, provided such qualifying patient or such primary caregiver
142 has strictly complied with the requirements of sections 1 to 9,
143 inclusive, of this act.

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

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

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

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

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

165 Sec. 8. (NEW) (*Effective October 1, 2004*) Any marijuana,
166 paraphernalia relating to marijuana, or other property seized by law
167 enforcement officials from a qualifying patient or a primary caregiver
168 in connection with a claimed medical use of marijuana under sections
169 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
170 the primary caregiver immediately upon the determination by a court
171 that the qualifying patient or the primary caregiver is entitled to the

172 medical use of marijuana under sections 1 to 9, inclusive, of this act, as
173 evidenced by a decision not to prosecute, a dismissal of charges or an
174 acquittal. Law enforcement officials seizing live marijuana plants as
175 evidence shall not be responsible for the care and maintenance of such
176 plants. This section does not apply to any qualifying patient or
177 primary caregiver who fails to comply with the requirements for the
178 medical use of marijuana under sections 1 to 9, inclusive, of this act.

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

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

189 Sec. 10. (NEW) (*Effective July 1, 2004*) There is established a medical
190 marijuana administration account which shall be a separate,
191 nonlapsing account within the General Fund. The account shall
192 contain the fees collected pursuant to subsection (b) of section 4 of this
193 act, and any other moneys required by law to be deposited in the
194 account, and shall be held in trust separate and apart from all other
195 moneys, funds and accounts. Any balance remaining in the account at
196 the end of any fiscal year shall be carried forward in the account for
197 the fiscal year next succeeding. Investment earnings credited to the
198 account shall become part of the account. Amounts in the account shall
199 be expended only pursuant to appropriations by the General Assembly
200 for the purpose of providing funds for administering the provisions of
201 sections 1 to 9, inclusive, of this act.

202 Sec. 11. Subsection (a) of section 21a-246 of the general statutes, as
203 amended by section 146 of public act 03-6 of the June 30 special

204 session, is repealed and the following is substituted in lieu thereof
205 (*Effective October 1, 2004*):

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

238 Sec. 12. Section 21a-253 of the general statutes, as amended by
 239 section 146 of public act 03-6 of the June 30 special session, is repealed
 240 and the following is substituted in lieu thereof (*Effective October 1,*
 241 *2004*):

242 Any [person] qualifying patient or primary caregiver, as defined
 243 respectively in section 1 of this act, may possess or have under [his]
 244 such qualifying patient's or primary caregiver's control a quantity of
 245 marijuana less than or equal to that quantity supplied [to him]
 246 pursuant to a prescription made in accordance with the provisions of
 247 section 21a-249, as amended, by a physician licensed under the
 248 provisions of chapter 370 and further authorized by subsection (a) of
 249 section 21a-246, as amended by this act, by the Commissioner of
 250 Agriculture and Consumer Protection to possess and supply marijuana
 251 for [the treatment of glaucoma or the side effects of chemotherapy]
 252 medical use pursuant to sections 1 to 9, inclusive, of this act. The
 253 provisions of this section do not apply to the possession or control of
 254 marijuana in a quantity that exceeds the amount permitted for medical
 255 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>July 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>