



General Assembly

Substitute Bill No. 124

January Session, 2005

* SB00124FIN__051705__ *

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, 2005*) 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;

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, but does not include a physician
27 assistant, as defined in section 20-12a of the general statutes;

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

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

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

42 (8) "Written certification" means a statement signed by the
43 qualifying patient's physician stating that, in such physician's
44 professional opinion, the qualifying patient has a debilitating medical
45 condition and the potential benefits of the medical use of marijuana
46 would likely outweigh the health risks of such use to the qualifying
47 patient.

48 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A qualifying patient shall
49 not be subject to arrest or prosecution, penalized in any manner,
50 including, but not limited to, being subject to any civil penalty, or

51 denied any right or privilege, including, but not limited to, being
52 subject to any disciplinary action by a professional licensing board, for
53 the medical use of marijuana if:

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

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

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

64 (4) The cultivation of such marijuana occurs in a secure indoor
65 facility.

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

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

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

77 (c) A qualifying patient shall have not more than one primary
78 caregiver at any time. A primary caregiver may not be responsible for
79 the care of more than one qualifying patient at any time. A primary
80 caregiver who is registered in accordance with subsection (a) of section

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

95 (d) Any written certification for the medical use of marijuana issued
96 by a physician under subdivision (2) of subsection (a) of this section
97 shall be valid for a period not to exceed one year from the date such
98 written certification is signed by the physician.

99 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Each qualifying patient
100 who is issued a written certification for the medical use of marijuana
101 under subdivision (2) of subsection (a) of section 2 of this act, and the
102 primary caregiver of such qualifying patient, shall register with the
103 Department of Consumer Protection not later than five business days
104 after the issuance of such written certification. Such registration shall
105 be effective until the expiration of the written certification issued by
106 the physician. The qualifying patient and the primary caregiver shall
107 provide sufficient identifying information, as determined by the
108 department, to establish the personal identity of the qualifying patient
109 and the primary caregiver. The qualifying patient or the primary
110 caregiver shall report any change in such information to the
111 department not later than five business days after such change. The
112 department shall issue a registration certificate to the qualifying
113 patient and to the primary caregiver and may charge a reasonable fee,
114 not to exceed twenty-five dollars, for a registration under this

115 subsection.

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

125 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) The Commissioner of
126 Consumer Protection may adopt regulations, in accordance with
127 chapter 54 of the general statutes, to establish (1) a standard form for
128 written certifications for the medical use of marijuana issued by
129 physicians under subdivision (2) of subsection (a) of section 2 of this
130 act, and (2) procedures for registrations under section 3 of this act.

131 (b) The Commissioner of Consumer Protection shall adopt
132 regulations, in accordance with chapter 54 of the general statutes, to
133 establish a reasonable fee to be collected from each qualifying patient
134 to whom a written certification for the medical use of marijuana is
135 issued under subdivision (2) of subsection (a) of section 2 of this act,
136 for the purpose of offsetting the direct and indirect costs of
137 administering the provisions of sections 1 to 9, inclusive, of this act.
138 The commissioner shall collect such fee at the time the qualifying
139 patient registers with the Department of Consumer Protection under
140 subsection (a) of section 3 of this act. Such fee shall be in addition to
141 any registration fee that may be charged under said subsection. The
142 fees required to be collected by the commissioner from qualifying
143 patients under this subsection shall be paid to the State Treasurer and
144 credited to the account established pursuant to section 10 of this act.

145 Sec. 5. (NEW) (*Effective October 1, 2005*) Nothing in sections 1 to 9,
146 inclusive, of this act shall be construed to require health insurance

147 coverage for the medical use of marijuana.

148 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) A qualifying patient or a
149 primary caregiver may assert the medical use of marijuana as an
150 affirmative defense to any prosecution involving marijuana, or
151 paraphernalia relating to marijuana, under chapter 420b of the general
152 statutes or any other provision of the general statutes, provided such
153 qualifying patient or such primary caregiver has strictly complied with
154 the requirements of sections 1 to 9, inclusive, of this act.

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

158 Sec. 7. (NEW) (*Effective October 1, 2005*) A physician shall not be
159 subject to arrest or prosecution, penalized in any manner, including,
160 but not limited to, being subject to any civil penalty, or denied any
161 right or privilege, including, but not limited to, being subject to any
162 disciplinary action by the Connecticut Medical Examining Board or
163 other professional licensing board, for providing a written certification
164 for the medical use of marijuana under subdivision (2) of subsection
165 (a) of section 2 of this act if:

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

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

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

177 Sec. 8. (NEW) (*Effective October 1, 2005*) Any marijuana,
178 paraphernalia relating to marijuana, or other property seized by law
179 enforcement officials from a qualifying patient or a primary caregiver
180 in connection with a claimed medical use of marijuana under sections
181 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
182 the primary caregiver immediately upon the determination by a court
183 that the qualifying patient or the primary caregiver is entitled to the
184 medical use of marijuana under sections 1 to 9, inclusive, of this act, as
185 evidenced by a decision not to prosecute, a dismissal of charges or an
186 acquittal. Law enforcement officials seizing live marijuana plants as
187 evidence shall not be responsible for the care and maintenance of such
188 plants. This section does not apply to any qualifying patient or
189 primary caregiver who fails to comply with the requirements for the
190 medical use of marijuana under sections 1 to 9, inclusive, of this act.

191 Sec. 9. (NEW) (*Effective October 1, 2005*) (a) Any person who makes a
192 fraudulent representation to a law enforcement official of any fact or
193 circumstance relating to the medical use of marijuana in order to avoid
194 arrest or prosecution under chapter 420b of the general statutes or any
195 other provision of the general statutes shall be guilty of a class C
196 misdemeanor.

197 (b) Any person who makes a fraudulent representation to a law
198 enforcement official of any fact or circumstance relating to the
199 issuance, contents or validity of a written certification for the medical
200 use of marijuana, or a document purporting to be such written
201 certification, shall be guilty of a class A misdemeanor.

202 Sec. 10. (NEW) (*Effective July 1, 2005*) There is established a medical
203 marijuana administration account which shall be a separate,
204 nonlapsing account within the General Fund. The account shall
205 contain the fees collected pursuant to subsection (b) of section 4 of this
206 act, and any other moneys required by law to be deposited in the
207 account, and shall be held in trust separate and apart from all other
208 moneys, funds and accounts. Any balance remaining in the account at
209 the end of any fiscal year shall be carried forward in the account for

210 the fiscal year next succeeding. Investment earnings credited to the
211 account shall become part of the account. Amounts in the account shall
212 be expended only pursuant to appropriation by the General Assembly
213 for the purpose of providing funds for administering the provisions of
214 sections 1 to 9, inclusive, of this act.

215 Sec. 11. Subsection (a) of section 21a-246 of the general statutes is
216 repealed and the following is substituted in lieu thereof (*Effective*
217 *October 1, 2005*):

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

244 manufacturer whose principal place of business is located outside [the]
 245 this state and who is registered with the federal Drug Enforcement
 246 [Agency] Administration or other federal agency, and who files a copy
 247 of such registration with the appropriate licensing authority under this
 248 chapter.

249 Sec. 12. Section 21a-253 of the general statutes is repealed and the
 250 following is substituted in lieu thereof (*Effective October 1, 2005*):

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>July 1, 2005</i>	New section
Sec. 11	<i>October 1, 2005</i>	21a-246(a)

Sec. 12	October 1, 2005	21a-253
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JUD *Joint Favorable Subst.*

GL *Joint Favorable*

PH *Joint Favorable*

FIN *Joint Favorable*