



General Assembly

Amendment

January Session, 2005

LCO No. 7317

SB0012407317SD0

Offered by:

SEN. MCDONALD, 27th Dist.

SEN. KISSEL, 7th Dist.

REP. BACCHIOCHI, 52nd Dist.

To: Subst. Senate Bill No. 124

File No. 403

Cal. No. 326

"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, 2005*) As used in sections 1 to
4 9, inclusive, of this act, unless the context otherwise requires:

5 (1) "Debilitating medical condition" means cancer, glaucoma,
6 positive status for human immunodeficiency virus or acquired
7 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
8 damage to the nervous tissue of the spinal cord with objective
9 neurological indication of intractable spasticity, epilepsy, cachexia or
10 wasting syndrome;

11 (2) "Marijuana" has the same meaning as provided in section 21a-
12 240 of the general statutes;

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

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

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

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

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

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

45 patient.

46 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A qualifying patient shall
47 not be subject to arrest or prosecution, penalized in any manner,
48 including, but not limited to, being subject to any civil penalty, or
49 denied any right or privilege, including, but not limited to, being
50 subject to any disciplinary action by a professional licensing board, for
51 the medical use of marijuana if:

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

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

59 (3) The combined amount of marijuana possessed by the qualifying
60 patient and the primary caregiver for medical use does not exceed four
61 marijuana plants, each having a maximum height of four feet, and one
62 ounce of usable marijuana; and

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

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

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

68 (2) The medical use of marijuana (A) in a motor bus or a school bus,
69 as defined respectively in section 14-1 of the general statutes, or in any
70 moving vehicle, (B) in the workplace, (C) on any school grounds or
71 any public or private school, dormitory, college or university property,
72 (D) at any public beach, park, recreation center or youth center or any
73 other place open to the public, or (E) in the presence of a person under
74 the age of eighteen. For the purposes of this subdivision, "presence"

75 means 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 four marijuana
91 plants, each having a maximum height of four feet, and one ounce of
92 usable marijuana. For the purposes of this subsection, "distribution" or
93 "distributed" means the transfer of marijuana and paraphernalia
94 related to marijuana from the primary caregiver to the qualifying
95 patient.

96 (d) Any written certification for the medical use of marijuana issued
97 by a physician under subdivision (2) of subsection (a) of this section
98 shall be valid for a period not to exceed one year from the date such
99 written certification is signed by the physician. Not later than ten days
100 after the expiration of such period, or at any time before the expiration
101 of such period should the qualifying patient no longer wish to possess
102 marijuana for medical use, the qualifying patient or the primary
103 caregiver shall destroy all marijuana plants and usable marijuana
104 possessed by the qualifying patient and the primary caregiver for
105 medical use.

106 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Each qualifying patient
107 who is issued a written certification for the medical use of marijuana

108 under subdivision (2) of subsection (a) of section 2 of this act, and the
109 primary caregiver of such qualifying patient, shall register with the
110 Department of Consumer Protection not later than five business days
111 after the issuance of such written certification. Such registration shall
112 be effective until the expiration of the written certification issued by
113 the physician. The qualifying patient and the primary caregiver shall
114 provide sufficient identifying information, as determined by the
115 department, to establish the personal identity of the qualifying patient
116 and the primary caregiver. The qualifying patient or the primary
117 caregiver shall report any change in such information to the
118 department not later than five business days after such change. The
119 department shall issue a registration certificate to the qualifying
120 patient and to the primary caregiver and may charge a reasonable fee,
121 not to exceed twenty-five dollars, for a registration under this
122 subsection.

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

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

138 (b) The Commissioner of Consumer Protection shall adopt
139 regulations, in accordance with chapter 54 of the general statutes, to
140 establish a reasonable fee to be collected from each qualifying patient

141 to whom a written certification for the medical use of marijuana is
142 issued under subdivision (2) of subsection (a) of section 2 of this act,
143 for the purpose of offsetting the direct and indirect costs of
144 administering the provisions of sections 1 to 9, inclusive, of this act.
145 The commissioner shall collect such fee at the time the qualifying
146 patient registers with the Department of Consumer Protection under
147 subsection (a) of section 3 of this act. Such fee shall be in addition to
148 any registration fee that may be charged under said subsection. The
149 fees required to be collected by the commissioner from qualifying
150 patients under this subsection shall be paid to the State Treasurer and
151 credited to the account established pursuant to section 10 of this act.

152 Sec. 5. (NEW) (*Effective October 1, 2005*) Nothing in sections 1 to 9,
153 inclusive, of this act shall be construed to require health insurance
154 coverage for the medical use of marijuana.

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

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

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

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

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

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

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

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

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

205 enforcement official of any fact or circumstance relating to the
 206 issuance, contents or validity of a written certification for the medical
 207 use of marijuana, or a document purporting to be such written
 208 certification, shall be guilty of a class A misdemeanor.

209 Sec. 10. (NEW) (*Effective July 1, 2005*) There is established a medical
 210 marijuana administration account which shall be a separate,
 211 nonlapsing account within the General Fund. The account shall
 212 contain the fees collected pursuant to subsection (b) of section 4 of this
 213 act, and any other moneys required by law to be deposited in the
 214 account, and shall be held in trust separate and apart from all other
 215 moneys, funds and accounts. Any balance remaining in the account at
 216 the end of any fiscal year shall be carried forward in the account for
 217 the fiscal year next succeeding. Investment earnings credited to the
 218 account shall become part of the account. Amounts in the account shall
 219 be expended only pursuant to appropriation by the General Assembly
 220 for the purpose of providing funds for administering the provisions of
 221 sections 1 to 9, 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