



General Assembly

January Session, 2007

Raised Bill No. 6715

LCO No. 3384

03384_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.

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

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 9,
2 inclusive, of this act, unless the context otherwise requires:

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

9 (2) "Marijuana" has the same meaning as provided in section 21a-
10 240 of the general statutes;

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

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

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

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

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

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

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

45 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient shall

46 not be subject to arrest or prosecution, penalized in any manner,
47 including, but not limited to, being subject to any civil penalty, or
48 denied any right or privilege, including, but not limited to, being
49 subject to any disciplinary action by a professional licensing board, for
50 the palliative use of marijuana if:

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

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

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

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

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

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

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

76 (c) A qualifying patient shall have not more than one primary
77 caregiver at any time. A primary caregiver may not be responsible for
78 the care of more than one qualifying patient at any time. A primary
79 caregiver who is registered in accordance with subsection (a) of section
80 3 of this act shall not be subject to arrest or prosecution, penalized in
81 any manner, including, but not limited to, being subject to any civil
82 penalty, or denied any right or privilege, including, but not limited to,
83 being subject to any disciplinary action by a professional licensing
84 board, for the acquisition, distribution, possession, cultivation or
85 transportation of marijuana or paraphernalia related to marijuana on
86 behalf of a qualifying patient, provided the amount of any marijuana
87 so acquired, distributed, possessed, cultivated or transported, together
88 with the combined amount of marijuana possessed by the qualifying
89 patient and the primary caregiver, shall not exceed four marijuana
90 plants, each having a maximum height of four feet, and one ounce of
91 usable marijuana. For the purposes of this subsection, "distribution" or
92 "distributed" means the transfer of marijuana and paraphernalia
93 related to marijuana from the primary caregiver to the qualifying
94 patient.

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

105 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) Each qualifying patient
106 who is issued a written certification for the palliative use of marijuana
107 under subdivision (2) of subsection (a) of section 2 of this act, and the
108 primary caregiver of such qualifying patient, shall register with the

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

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

131 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The Commissioner of
132 Public Health may adopt regulations, in accordance with chapter 54 of
133 the general statutes, to establish (1) a standard form for written
134 certifications for the palliative use of marijuana issued by physicians
135 under subdivision (2) of subsection (a) of section 2 of this act, and (2)
136 procedures for registrations under section 3 of this act.

137 (b) The Commissioner of Public Health shall adopt regulations, in
138 accordance with chapter 54 of the general statutes, to establish a
139 reasonable fee to be collected from each qualifying patient to whom a
140 written certification for the palliative use of marijuana is issued under

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

151 Sec. 5. (NEW) (*Effective October 1, 2007*) Nothing in sections 1 to 9,
152 inclusive, of this act shall be construed to require health insurance
153 coverage for the palliative use of marijuana.

154 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient or a
155 primary caregiver may assert the palliative use of marijuana as an
156 affirmative defense to any prosecution involving marijuana, or
157 paraphernalia relating to marijuana, under chapter 420b of the general
158 statutes or any other provision of the general statutes, provided such
159 qualifying patient or such primary caregiver has strictly complied with
160 the requirements of sections 1 to 9, inclusive, of this act.

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

164 Sec. 7. (NEW) (*Effective October 1, 2007*) A physician shall not be
165 subject to arrest or prosecution, penalized in any manner, including,
166 but not limited to, being subject to any civil penalty, or denied any
167 right or privilege, including, but not limited to, being subject to any
168 disciplinary action by the Connecticut Medical Examining Board or
169 other professional licensing board, for providing a written certification
170 for the palliative use of marijuana under subdivision (2) of subsection
171 (a) of section 2 of this act if:

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

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

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

183 Sec. 8. (NEW) (*Effective October 1, 2007*) Any marijuana,
184 paraphernalia relating to marijuana, or other property seized by law
185 enforcement officials from a qualifying patient or a primary caregiver
186 in connection with a claimed palliative use of marijuana under sections
187 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
188 the primary caregiver immediately upon the determination by a court
189 that the qualifying patient or the primary caregiver is entitled to the
190 palliative use of marijuana under sections 1 to 9, inclusive, of this act,
191 as evidenced by a decision not to prosecute, a dismissal of charges or
192 an acquittal. Law enforcement officials seizing live marijuana plants as
193 evidence shall not be responsible for the care and maintenance of such
194 plants. This section does not apply to any qualifying patient or
195 primary caregiver who fails to comply with the requirements for the
196 palliative use of marijuana under sections 1 to 9, inclusive, of this act.

197 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any person who makes a
198 fraudulent representation to a law enforcement official of any fact or
199 circumstance relating to the palliative use of marijuana in order to
200 avoid arrest or prosecution under chapter 420b of the general statutes
201 or any other provision of the general statutes shall be guilty of a class
202 C misdemeanor.

203 (b) Any person who makes a fraudulent representation to a law
 204 enforcement official of any fact or circumstance relating to the
 205 issuance, contents or validity of a written certification for the palliative
 206 use of marijuana, or a document purporting to be such written
 207 certification, shall be guilty of a class A misdemeanor.

208 Sec. 10. (NEW) (*Effective July 1, 2007*) There is established a palliative
 209 marijuana administration account which shall be a separate,
 210 nonlapsing account within the General Fund. The account shall
 211 contain the fees collected pursuant to subsection (b) of section 4 of this
 212 act, and any other moneys required by law to be deposited in the
 213 account, and shall be held in trust separate and apart from all other
 214 moneys, funds and accounts. Any balance remaining in the account at
 215 the end of any fiscal year shall be carried forward in the account for
 216 the fiscal year next succeeding. Investment earnings credited to the
 217 account shall become part of the account. Amounts in the account shall
 218 be expended only pursuant to appropriation by the General Assembly
 219 for the purpose of providing funds for administering the provisions of
 220 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, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section

Statement of Purpose:

To allow Connecticut residents with certain debilitating medical conditions to cultivate and use marijuana for palliative purposes under certain circumstances and with certain restrictions when a treating

physician provides a professional opinion that the benefits of the palliative 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.]