



General Assembly

January Session, 2011

Governor's Bill No. 1015

LCO No. 3427

*03427 _____ *

Referred to Committee on Judiciary

Introduced by:

SEN. WILLIAMS, 29th Dist.

SEN. LOONEY, 11th Dist.

REP. DONOVAN, 84th Dist.

REP. SHARKEY, 88th Dist.

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, 2011*) 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, 2011*) (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. No person who has been convicted of possession
78 of marijuana or for dealing drugs shall serve as a primary caregiver for
79 a qualifying patient. A primary caregiver may not be responsible for
80 the care of more than one qualifying patient at any time. A primary
81 caregiver who is registered in accordance with subsection (a) of section
82 3 of this act shall not be subject to arrest or prosecution, penalized in
83 any manner, including, but not limited to, being subject to any civil
84 penalty, or denied any right or privilege, including, but not limited to,
85 being subject to any disciplinary action by a professional licensing
86 board, for the acquisition, distribution, possession, cultivation or
87 transportation of marijuana or paraphernalia related to marijuana on
88 behalf of a qualifying patient, provided the amount of any marijuana
89 so acquired, distributed, possessed, cultivated or transported, together
90 with the combined amount of marijuana possessed by the qualifying
91 patient and the primary caregiver, shall not exceed four marijuana
92 plants, each having a maximum height of four feet, and one ounce of
93 usable marijuana. For the purposes of this subsection, "distribution" or
94 "distributed" means the transfer of marijuana and paraphernalia
95 related to marijuana from the primary caregiver to the qualifying
96 patient.

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

106 caregiver for palliative use.

107 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) Each qualifying patient
108 who is issued a written certification for the palliative use of marijuana
109 under subdivision (2) of subsection (a) of section 2 of this act, and the
110 primary caregiver of such qualifying patient, shall register with the
111 Department of Consumer Protection not later than five business days
112 after the issuance of such written certification. Such registration shall
113 be effective until the expiration of the written certification issued by
114 the physician. The qualifying patient and the primary caregiver shall
115 provide sufficient identifying information, as determined by the
116 department, to establish the personal identity of the qualifying patient
117 and the primary caregiver. The qualifying patient or the primary
118 caregiver shall report any change in such information to the
119 department not later than five business days after such change. The
120 department shall issue a registration certificate to the qualifying
121 patient and to the primary caregiver and may charge a reasonable fee,
122 not to exceed twenty-five dollars, for a registration under this
123 subsection. Any registration fees collected by the department under
124 this subsection shall be paid to the State Treasurer and credited to the
125 account established pursuant to section 10 of this act.

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

135 Sec. 4. (NEW) (*Effective October 1, 2011*) (a) The Commissioner of
136 Consumer Protection may adopt regulations, in accordance with
137 chapter 54 of the general statutes, to establish (1) a standard form for

138 written certifications for the palliative use of marijuana issued by
139 physicians under subdivision (2) of subsection (a) of section 2 of this
140 act, and (2) procedures for registrations under section 3 of this act.

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

155 Sec. 5. (NEW) (*Effective October 1, 2011*) Nothing in sections 1 to 9,
156 inclusive, of this act shall be construed to require health insurance
157 coverage for the palliative use of marijuana.

158 Sec. 6. (NEW) (*Effective October 1, 2011*) (a) A qualifying patient or a
159 primary caregiver may assert the palliative use of marijuana as an
160 affirmative defense to any prosecution involving marijuana, or
161 paraphernalia relating to marijuana, under chapter 420b of the general
162 statutes or any other provision of the general statutes, provided such
163 qualifying patient or such primary caregiver has strictly complied with
164 the requirements of sections 1 to 9, inclusive, of this act.

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

168 Sec. 7. (NEW) (*Effective October 1, 2011*) A physician shall not be

169 subject to arrest or prosecution, penalized in any manner, including,
170 but not limited to, being subject to any civil penalty, or denied any
171 right or privilege, including, but not limited to, being subject to any
172 disciplinary action by the Connecticut Medical Examining Board or
173 other professional licensing board, for providing a written certification
174 for the palliative use of marijuana under subdivision (2) of subsection
175 (a) of section 2 of this act if:

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

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

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

187 Sec. 8. (NEW) (*Effective October 1, 2011*) Any marijuana,
188 paraphernalia relating to marijuana, or other property seized by law
189 enforcement officials from a qualifying patient or a primary caregiver
190 in connection with a claimed palliative use of marijuana under sections
191 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
192 the primary caregiver immediately upon the determination by a court
193 that the qualifying patient or the primary caregiver is entitled to the
194 palliative use of marijuana under sections 1 to 9, inclusive, of this act,
195 as evidenced by a decision not to prosecute, a dismissal of charges or
196 an acquittal. Law enforcement officials seizing live marijuana plants as
197 evidence shall not be responsible for the care and maintenance of such
198 plants. This section does not apply to any qualifying patient or
199 primary caregiver who fails to comply with the requirements for the
200 palliative use of marijuana under sections 1 to 9, inclusive, of this act.

201 Sec. 9. (NEW) (*Effective October 1, 2011*) (a) Any person who makes a
 202 fraudulent representation to a law enforcement official of any fact or
 203 circumstance relating to the palliative use of marijuana in order to
 204 avoid arrest or prosecution under chapter 420b of the general statutes
 205 or any other provision of the general statutes shall be guilty of a class
 206 C misdemeanor.

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

212 Sec. 10. (NEW) (*Effective July 1, 2011*) There is established a palliative
 213 marijuana administration account which shall be a separate,
 214 nonlapsing account within the General Fund. The account shall
 215 contain any fees collected pursuant to subsection (a) of section 3 of this
 216 act, the fees collected pursuant to subsection (b) of section 4 of this act,
 217 and any other moneys required by law to be deposited in the account,
 218 and shall be held in trust separate and apart from all other moneys,
 219 funds and accounts. Any balance remaining in the account at the end
 220 of any fiscal year shall be carried forward in the account for the fiscal
 221 year next succeeding. Investment earnings credited to the account shall
 222 become part of the account. Amounts in the account shall be expended
 223 only pursuant to appropriation by the General Assembly for the
 224 purpose of providing funds to the Department of Consumer Protection
 225 for administering the provisions of 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, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section

Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>October 1, 2011</i>	New section
Sec. 9	<i>October 1, 2011</i>	New section
Sec. 10	<i>July 1, 2011</i>	New section

Statement of Purpose:

To implement the Governor's budget recommendations.

[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.]