



# Senate

General Assembly

**File No. 605**

January Session, 2011

Senate Bill No. 1015

*Senate, April 20, 2011*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***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

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Consumer Protection, Dept.	Palliative Marijuana Administration Account - Revenue Gain	7,000 - 15,000	27,500 - 35,500
Judicial Dept.	GF - Potential Revenue Gain	25,000	25,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain of \$7,000 to \$15,000 in FY 12 and \$27,500 to \$35,500 in FY 13 through the establishment of a \$25 fee for patients and primary caregivers to register with the Department of Consumer Protection (DCP) for the palliative use of marijuana. Fees payable to the DCP would be deposited in the nonlapsing Palliative Marijuana Administration Account established in the bill.

In FY 12 it is assumed 280 to 600 persons will register with the DCP. The estimate of 600 persons is based on the state's population and the usage rates of Vermont and Maine while the 280 person estimate is based on data from New Mexico.

In FY 13 it is assumed total registrants would mirror the data from Rhode Island with an average of 0.48 registrants per 1,000 state residents or 1,700 registrants, resulting in additional revenue of \$27,500 to \$35,500.

The bill makes it a class C misdemeanor to lie to a law enforcement official about acquiring, possessing, cultivating, using, distributing, or

transporting marijuana for palliative use in order to avoid arrest. The bill also makes it a class A misdemeanor to lie to a law enforcement officer about the issuance, contents, or validity of a (1) written certificate for the palliative use of marijuana or (2) document purporting to be a written certification. This will result in an estimated revenue gain of less than \$25,000 to the General Fund. The estimate assumes that the establishment of crimes for this offense will increase the likelihood that an estimated less than 50 offenders annually would be prosecuted and receive harsher penalties than under current law.<sup>1</sup>

It is anticipated that the number of additional low-risk offenders placed on probation would be less than 50, and would not result in additional resources being required by the Judicial Department. An additional 50 offenders placed on probation would represent a 0.1% increase to the total probation caseload.

### ***The Out Years***

The potential revenue from criminal fines indicated above would remain constant into the out years since fine amounts are set by statute. The annualized cost associated with probation supervision and incarceration would continue into the future subject to inflation.

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<sup>1</sup> In 2010, zero convictions were made for this offense, as it was not specified in statute.

**OLR Bill Analysis****SB 1015*****AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.*****SUMMARY:**

This bill allows a physician to certify an adult patient's use of marijuana after determining that the patient has a specified debilitating condition and could potentially benefit from the palliative use of marijuana. It establishes a procedure for certifying patients. The bill does not require health insurers to cover the palliative use of marijuana.

It allows people suffering from these conditions and their primary caregivers to possess a quantity of marijuana that the bill sets to treat the conditions.

The bill requires the patients and their primary caregivers to register with the Department of Consumer Protection (DCP) and authorizes the department to impose a \$25 registration fee and other fees. The fees must be deposited in a separate, nonlapsing palliative marijuana administration account the bill establishes. Registry information is available for law enforcement purposes but is otherwise confidential and not subject to disclosure under the Freedom of Information Act.

The bill prohibits physicians, qualifying patients, and their caregivers who comply with its provisions from being arrested, prosecuted, or otherwise punished for certifying, using, or possessing palliative marijuana.

The bill requires law enforcement agencies to return marijuana, marijuana paraphernalia, or other property seized from a patient or primary caregiver who complies with its provisions.

EFFECTIVE DATE: October 1, 2011, except for the provision establishing the palliative marijuana administration account, which is effective July 1, 2011.

## **§ 2 – USE OF MARIJUANA FOR PALLIATIVE PURPOSES**

The bill allows adult patients to use marijuana to treat cancer, glaucoma, HIV, AIDS, Parkinson’s disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia (emaciation often caused by cancer or cardiac diseases), or wasting syndrome. It allows people with these debilitating conditions to possess marijuana, up to the amount permitted for palliative use under the bill—up to four plants, each having a maximum height of four feet, and one ounce of usable marijuana (i.e., dried marijuana leaves and flowers or mixtures or preparations of flowers and leaves, minus the seeds, stalks, and roots).

Under the bill, “palliative use” means the acquisition and distribution, possession, growth, use, or transportation of marijuana or related paraphernalia to treat the qualifying patient’s symptoms or their effects. “Acquisition and distribution” means the transfer of marijuana and marijuana paraphernalia from the primary caregiver to the qualifying patient.

The bill allows a patient or his primary caregiver to possess the usable amount. The caregiver must be at least age 18 and someone other than the patient’s doctor who agrees to take responsibility for managing the patient’s well-being with respect to his or her palliative use of marijuana. If the patient lacks legal capacity, the caregiver must be the patient’s parent, guardian, or legal custodian. Someone convicted of marijuana possession or drug dealing cannot serve as a primary caregiver. The qualifying patient’s physician must determine the patient’s need for a primary caregiver and document the need in a certification of palliative use. The bill limits patients to one caregiver at a time and limits caregivers to only one patient.

## **§§ 2, 4 – CERTIFICATION OF MARIJUANA USE**

Under the bill, a physician may certify a patient's use of marijuana only after determining that the patient has a debilitating condition and the potential benefits of the palliative use of marijuana would likely outweigh its health risks.

The bill makes the certification valid for one year from the date it is signed. It requires the patient or the primary caregiver to destroy all marijuana plants and usable marijuana that the patient or caregiver possesses for palliative use (1) within 10 days after the certification expires or (2) at any time before that if the patient no longer wishes to possess marijuana for palliative use.

The bill permits DCP to establish in regulations a form physicians must use to certify a patient's palliative use of marijuana.

### **§§ 3, 4 – REGISTRATION**

The bill requires certified patients and their primary caregivers to register with DCP within five business days after the certificate is issued. They must give the department information that sufficiently and personally identifies them and report any change in the information within five business days after it occurs.

The bill requires DCP to issue the patient and the primary caregiver a registration certificate that is valid for the same period as the written certification from the physician, up to one year. DCP may charge a reasonable registration fee, up to \$25. It must turn over any registration fees it collects to the state treasurer for deposit in the palliative marijuana administration account the bill creates.

The bill makes registration information confidential and not subject to disclosure under the Freedom of Information Act. But DCP can verify for any law enforcement agency that asks whether a patient or primary caregiver is registered and provide the agency with reasonable access to registry information for law enforcement purposes.

The bill allows DCP to establish registration procedures in

regulations. It requires DCP to establish regulations setting a reasonable fee for patients certified for palliative marijuana use that offsets direct and indirect costs associated with administering the palliative use of marijuana. When they register, patients must pay this fee and any registration fee to the state treasurer for deposit into the palliative marijuana administration account.

#### **§ 10 – PALLIATIVE MARIJUANA ADMINISTRATION ACCOUNT**

The bill establishes a separate, nonlapsing palliative marijuana administration account in the General Fund. The account consists of the fees DCP collects for palliative marijuana registration and administration, investment earnings, and any other moneys the law requires to be deposited in it. The legislature can appropriate money in the account only for palliative marijuana administration. Any money remaining in the account at the end of a fiscal year must be carried forward to the next year.

#### **§§ 2, 7 – PROTECTIONS FROM PUNISHMENT FOR MARIJUANA USE, POSSESSION, AND CERTIFICATION**

##### ***Qualifying Patients***

The bill prohibits qualifying patients from being arrested, prosecuted, otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by a professional licensing board, for palliative marijuana use if:

1. a physician diagnoses the patient with a debilitating condition;
2. the patient's physician has issued a written certification for the patient's palliative use of marijuana after prescribing, or determining it is against the patient's best interest to prescribe, prescription drugs to address the symptoms or effects the marijuana is supposed to treat;
3. the combined amount possessed by the patient and his or her primary caregiver for palliative use does not exceed four marijuana plants, each having a maximum height of four feet, and one ounce of usable marijuana; and

4. the marijuana is cultivated in a secure indoor facility.

The protection against punishment does not apply if a patient uses marijuana:

1. in a way that endangers another person's health or well-being;
2. on a motor or school bus, in any moving vehicle, at work, on school grounds or college or university property, in a public or private school or dormitory, or at a public park, beach, recreation or youth center, or any other public place; or
3. within the direct line of sight of anyone under age 18, in any way that exposes that person to second-hand marijuana smoke, or both.

### ***Physicians***

The bill prohibits any physician from being arrested, prosecuted, or otherwise penalized, including being subject to civil penalties or denied any right or privilege, including being disciplined by the Connecticut Medical Examining Board or any other professional licensing board, for writing a certification for palliative marijuana use if he or she:

1. diagnosed a qualifying patient with a debilitating condition;
2. explained the potential risks and benefits of using marijuana for palliative purposes to any such patient or the parent, guardian, or legal custodian of such a patient who lacks legal capacity; and
3. based the written certification on his or her professional opinion after fully assessing the patient's medical history and current medical condition in the course of a bona fide physician-patient relationship.

The bill specifies that it does not apply to physician assistants.

### ***Primary Caregivers***

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The bill prohibits registered primary caregivers from being arrested, prosecuted, otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by a professional licensing board, for acquiring, distributing, possessing, growing, or transporting a small amount of marijuana or related paraphernalia for a qualifying patient. The amount of marijuana, along with the amount the patient possesses, cannot exceed four plants, each having a maximum height of four feet, and one ounce of usable marijuana.

The protection against punishment for distribution applies only when the drug or paraphernalia is transferred from the caregiver to the patient.

#### **§§ 6, 8, 9 – PALLIATIVE USE OF MARIJUANA AND CRIMINAL PROCEDURE**

The bill permits qualifying patients and primary caregivers who comply with its requirements to assert that fact as an affirmative defense to (i.e., a way to avoid) any state prosecution involving marijuana or related paraphernalia. It prohibits anyone from being arrested or prosecuted solely for being present or in the vicinity as marijuana or marijuana paraphernalia is acquired, distributed, possessed, cultivated, used, or transported for palliative use.

The bill requires law enforcement agencies to return marijuana, marijuana paraphernalia, or other property seized from a qualifying patient or primary caregiver who complies with its provisions immediately after a court determines that they were entitled to have it. Under the bill, such an entitlement is evidenced by a prosecutor's decision not to prosecute, the dismissal of the charges, or the patient or caregiver's acquittal.

The bill absolves law enforcement officials of any responsibility for the care and maintenance of live marijuana plants seized as evidence.

Under the bill, someone who lies to a law enforcement official about acquiring, possessing, cultivating, using, distributing, or transporting

marijuana or related paraphernalia for palliative use in order to avoid arrest or prosecution for any crime is guilty of a class C misdemeanor. Someone who lies to the official about the issuance, contents, or validity of a (1) written certification for the palliative use of marijuana or (2) document purporting to be a written certification, is guilty of a class A misdemeanor.

A class C misdemeanor is punishable by up to three months' imprisonment, up to a \$500 fine, or both. A class A misdemeanor is punishable by up to one year's imprisonment, up to a \$2,000 fine, or both.

## **BACKGROUND**

### ***Marijuana as a Controlled Substance***

Federal law classifies marijuana as a Schedule I controlled substance. With one exception, the law prohibits anyone from knowingly or intentionally manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense Schedule I drugs. Licensed practitioners, including pharmacies, can use Schedule I substances in government-approved research projects. The penalty for violations varies depending on the amount of drugs involved (21 U.S.C. §§ 812, 823, and 841 (a) (1)).

### ***Marijuana Tax***

State law prohibits anyone from purchasing, acquiring, transporting, or importing marijuana or controlled substances into the state and imposes a tax on violators (CGS § 12-651).

### ***Related Bills***

sSB 952, reported favorably by the Judiciary Committee, makes a number of changes to the laws that enhance the penalties for illegal drug activities near schools, day care centers, and public housing projects, including (1) allowing the court to suspend the enhanced penalty, (2) reducing the size of the zones around the locations from 1,500 to 200 feet in cities with populations of more than 60,000, and (3) eliminating the zones around public housing projects.

sSB 1014, reported favorably by the Judiciary Committee, reduces the penalty for possessing less than one half ounce of marijuana from a crime to an infraction for a first offense. It makes a subsequent offense punishable by a fine of \$200 to \$500. The bill also reduces the penalty for using drug paraphernalia from a crime to an infraction when the use relates to less than one half ounce of marijuana. The bill requires the motor vehicle commissioner to suspend the driver's license of anyone under age 21 who is convicted of one of these violations.

HB 6293, reported favorably by the Planning and Development Committee, allows a municipality with a population under 25,000 to collect unpaid taxes on marijuana and controlled substances when they are seized during an arrest or found during a search. The bill provides that any unpaid taxes of this nature owed to a municipality constitute a lien against any property the dealer has in the municipality and are treated similarly to a property tax lien.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 34 Nay 10 (04/05/2011)