



General Assembly

January Session, 2011

Amendment

LCO No. 7518

SB0101507518SR0

Offered by:
SEN. KISSEL, 7th Dist.

To: Senate Bill No. 1015

File No. 605

Cal. No. 375

"AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 9,
4 inclusive, of this act, unless the context otherwise requires:

5 (1) "Qualifying medical condition" means an illness, disease, virus,
6 syndrome, symptom, injury or other medical condition that the
7 Commissioner of Public Health approves for treatment with marijuana
8 pursuant to section 3 of this act;

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

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

15 the qualifying patient;

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

19 (5) "Qualifying patient" means a person who is eighteen years of age
20 or older and has been diagnosed by a physician as having a qualifying
21 medical condition;

22 (6) "Registered pharmacist" means a pharmacist licensed pursuant
23 to chapter 400j of the general statutes who registers with the
24 Commissioner of Consumer Protection, pursuant to subdivision (2) of
25 subsection (a) of section 2 of this act, to distribute marijuana for
26 palliative use to qualifying patients;

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

31 (8) "Written certification" means a statement signed by the
32 qualifying patient's physician stating that, in such physician's
33 professional opinion, the qualifying patient has a qualifying medical
34 condition and the potential benefits of the palliative use of marijuana
35 would likely outweigh the health risks of such use to the qualifying
36 patient.

37 Sec. 2. (NEW) (*Effective from passage*) (a) Not later than January 1,
38 2013, the Commissioner of Consumer Protection shall adopt
39 regulations, in accordance with chapter 54 of the general statutes, to
40 establish:

41 (1) A program for growing usable marijuana for palliative use at the
42 Connecticut Agricultural Experiment Station, and for the distribution
43 of such marijuana to pharmacists in the state;

44 (2) A registry for pharmacists the commissioner has authorized to

45 distribute marijuana for palliative use pursuant to the provisions of
46 sections 1 to 9, inclusive, of this act; and

47 (3) A standard form for written certifications for the palliative use of
48 marijuana issued by physicians under subdivision (2) of subsection (a)
49 of section 5 of this act.

50 (b) Not later than January 1, 2013, the Commissioner of Consumer
51 Protection shall adopt regulations, in accordance with chapter 54 of the
52 general statutes, to establish a reasonable fee to be collected from each
53 qualifying patient to whom a written certification for the palliative use
54 of marijuana is issued under subdivision (2) of subsection (a) of section
55 5 of this act, for the purpose of offsetting the direct and indirect costs of
56 administering the provisions of sections 1 to 9, inclusive, of this act.
57 The fees required to be collected by the commissioner from qualifying
58 patients under this subsection shall be paid to the State Treasurer and
59 credited to the account established pursuant to section 10 of this act.

60 (c) Not later than January 1, 2013, the Commissioner of Consumer
61 Protection shall adopt regulations, in accordance with chapter 54 of the
62 general statutes, to establish a reasonable fee to be collected from each
63 registered pharmacist, for the purpose of offsetting the direct and
64 indirect costs of administering the provisions of sections 1 to 9,
65 inclusive, of this act. The fees required to be collected by the
66 commissioner from registered pharmacists under this subsection shall
67 be paid to the State Treasurer and credited to the account established
68 pursuant to section 10 of this act.

69 Sec. 3. (NEW) (*Effective from passage*) Not later than January 1, 2013,
70 the Commissioner of Public Health shall adopt regulations, in
71 accordance with chapter 54 of the general statutes, to approve
72 qualifying medical conditions for which a physician may issue a
73 written certification for the palliative use of marijuana.

74 Sec. 4. (NEW) (*Effective from passage*) Nothing in sections 1 to 9,
75 inclusive, of this act shall be construed to require health insurance
76 coverage for the palliative use of marijuana.

77 Sec. 5. (NEW) (*Effective January 1, 2013*) (a) A qualifying patient shall
78 not be subject to arrest or prosecution, penalized in any manner,
79 including, but not limited to, being subject to any civil penalty, or
80 denied any right or privilege, including, but not limited to, being
81 subject to any disciplinary action by a professional licensing board, for
82 the palliative use of marijuana if:

83 (1) The qualifying patient has been diagnosed by a physician as
84 having a qualifying medical condition;

85 (2) The qualifying patient's physician has issued a written
86 certification to the qualifying patient for the palliative use of
87 marijuana;

88 (3) The amount of marijuana possessed by the qualifying patient for
89 palliative use does not exceed one ounce of usable marijuana; and

90 (4) The qualifying patient obtained the marijuana from a registered
91 pharmacist.

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

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

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

104 (c) Any written certification for the palliative use of marijuana
105 issued by a physician under subdivision (2) of subsection (a) of this
106 section shall be valid for a period not to exceed one year from the date

107 such written certification is signed by the physician. Not later than ten
108 days after the expiration of such period, or at any time before the
109 expiration of such period should the qualifying patient no longer wish
110 to possess marijuana for palliative use, the qualifying patient shall
111 destroy all usable marijuana possessed by the qualifying patient for
112 palliative use.

113 (d) A qualifying patient may assert the palliative use of marijuana as
114 an affirmative defense to any prosecution involving marijuana, or
115 paraphernalia relating to marijuana, under chapter 420b of the general
116 statutes or any other provision of the general statutes, provided such
117 qualifying patient has strictly complied with the requirements of
118 sections 1 to 9, inclusive, of this act.

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

122 Sec. 6. (NEW) (*Effective January 1, 2013*) A physician shall not be
123 subject to arrest or prosecution, penalized in any manner, including,
124 but not limited to, being subject to any civil penalty, or denied any
125 right or privilege, including, but not limited to, being subject to any
126 disciplinary action by the Connecticut Medical Examining Board or
127 other professional licensing board, for providing a written certification
128 for the palliative use of marijuana under subdivision (2) of subsection
129 (a) of section 5 of this act if:

130 (1) The physician has diagnosed the qualifying patient as having a
131 qualifying medical condition;

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

136 (3) The written certification issued by the physician is based upon
137 the physician's professional opinion after having completed a full

138 assessment of the qualifying patient's medical history and current
139 medical condition made in the course of a bona fide physician-patient
140 relationship.

141 Sec. 7. (NEW) (*Effective January 1, 2013*) A registered pharmacist
142 shall not be subject to arrest or prosecution, penalized in any manner,
143 including, but not limited to, being subject to any civil penalty, or
144 denied any right or privilege, including, but not limited to, being
145 subject to any disciplinary action by the Commission of Pharmacy or
146 other professional licensing board, for dispensing or distributing
147 marijuana under the program established by the Commissioner of
148 Consumer Protection pursuant to subsection (a) of section 2 of this act
149 if:

150 (1) The pharmacist has registered with the Department of Consumer
151 Protection to distribute marijuana for palliative use; and

152 (2) The pharmacist distributes marijuana solely to qualifying
153 patients who provide written certification issued by a physician.

154 Sec. 8. (NEW) (*Effective January 1, 2013*) Any marijuana,
155 paraphernalia relating to marijuana, or other property seized by law
156 enforcement officials from a qualifying patient in connection with a
157 claimed palliative use of marijuana under sections 1 to 9, inclusive, of
158 this act shall be returned to the qualifying patient immediately upon
159 the determination by a court that the qualifying patient is entitled to
160 the palliative use of marijuana under sections 1 to 9, inclusive, of this
161 act, as evidenced by a decision not to prosecute, a dismissal of charges
162 or an acquittal. This section does not apply to any qualifying patient
163 who fails to comply with the requirements for the palliative use of
164 marijuana under sections 1 to 9, inclusive, of this act.

165 Sec. 9. (NEW) (*Effective January 1, 2013*) (a) Any person who makes a
166 fraudulent representation to a law enforcement official of any fact or
167 circumstance relating to the palliative use of marijuana in order to
168 avoid arrest or prosecution under chapter 420b of the general statutes
169 or any other provision of the general statutes shall be guilty of a class

170 C misdemeanor.

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

176 Sec. 10. (NEW) (*Effective July 1, 2011*) There is established a palliative
 177 marijuana administration account which shall be a separate,
 178 nonlapsing account within the General Fund. The account shall
 179 contain any fees collected pursuant to subsections (b) and (c) of section
 180 2 of this act and any other moneys required by law to be deposited in
 181 the account, and shall be held in trust separate and apart from all other
 182 moneys, funds and accounts. Any balance remaining in the account at
 183 the end of any fiscal year shall be carried forward in the account for
 184 the fiscal year next succeeding. Investment earnings credited to the
 185 account shall become part of the account. Amounts in the account shall
 186 be expended only pursuant to appropriation by the General Assembly
 187 for the purpose of providing funds to the Departments of Consumer
 188 Protection and Public Health for administering the provisions of
 189 sections 1 to 9, inclusive, of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>January 1, 2013</i>	New section
Sec. 6	<i>January 1, 2013</i>	New section
Sec. 7	<i>January 1, 2013</i>	New section
Sec. 8	<i>January 1, 2013</i>	New section
Sec. 9	<i>January 1, 2013</i>	New section
Sec. 10	<i>July 1, 2011</i>	New section