



General Assembly

Amendment

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LCO No. 8621

SB0041508621HDO

Offered by:

REP. LYDDY, 106th Dist.

REP. TERCYAK, 26th Dist.

To: Subst. Senate Bill No. 415

File No. 559

Cal. No. 629

"AN ACT CONCERNING STATE OVERSIGHT OVER HOOKAH LOUNGES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2011*) As used in sections 501 to
4 509, 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) "Palliative use" means the acquisition and distribution,

14 possession, cultivation, use or transportation of marijuana or
15 paraphernalia relating to marijuana to alleviate a qualifying patient's
16 symptoms or the effects of such symptoms, but does not include any
17 such use of marijuana by any person other than the qualifying patient.
18 For the purposes of this subdivision, "acquisition and distribution"
19 means the transfer of marijuana and paraphernalia relating to
20 marijuana from the 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 palliative
28 use of marijuana, provided (A) in the case of a qualifying patient
29 lacking legal capacity, such person shall be a parent, guardian or
30 person having legal custody of such qualifying patient, and (B) the
31 need for such person shall be evaluated by the qualifying patient's
32 physician and such need shall be documented in the written
33 certification;

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

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

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

46 patient.

47 Sec. 502. (NEW) (*Effective October 1, 2011*) (a) A qualifying patient
48 shall not be subject to arrest or prosecution, penalized in any manner,
49 including, but not limited to, being subject to any civil penalty, or
50 denied any right or privilege, including, but not limited to, being
51 subject to any disciplinary action by a professional licensing board, for
52 the palliative use of marijuana if:

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

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

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

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

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

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

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

76 "presence" means within the direct line of sight of the palliative use of
77 marijuana or exposure to second-hand marijuana smoke, or both.

78 (c) A qualifying patient shall have not more than one primary
79 caregiver at any time. No person who has been convicted of possession
80 of marijuana or for dealing drugs shall serve as a primary caregiver for
81 a qualifying patient. A primary caregiver may not be responsible for
82 the care of more than one qualifying patient at any time. A primary
83 caregiver who is registered in accordance with subsection (a) of section
84 503 of this act shall not be subject to arrest or prosecution, penalized in
85 any manner, including, but not limited to, being subject to any civil
86 penalty, or denied any right or privilege, including, but not limited to,
87 being subject to any disciplinary action by a professional licensing
88 board, for the acquisition, distribution, possession, cultivation or
89 transportation of marijuana or paraphernalia related to marijuana on
90 behalf of a qualifying patient, provided the amount of any marijuana
91 so acquired, distributed, possessed, cultivated or transported, together
92 with the combined amount of marijuana possessed by the qualifying
93 patient and the primary caregiver, shall not exceed four marijuana
94 plants, each having a maximum height of four feet, and one ounce of
95 usable marijuana. For the purposes of this subsection, "distribution" or
96 "distributed" means the transfer of marijuana and paraphernalia
97 related to marijuana from the primary caregiver to the qualifying
98 patient.

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

109 Sec. 503. (NEW) (*Effective October 1, 2011*) (a) Each qualifying patient
110 who is issued a written certification for the palliative use of marijuana
111 under subdivision (2) of subsection (a) of section 502 of this act, and
112 the primary caregiver of such qualifying patient, shall register with the
113 Department of Consumer Protection not later than five business days
114 after the issuance of such written certification. Such registration shall
115 be effective until the expiration of the written certification issued by
116 the physician. The qualifying patient and the primary caregiver shall
117 provide sufficient identifying information, as determined by the
118 department, to establish the personal identity of the qualifying patient
119 and the primary caregiver. The qualifying patient or the primary
120 caregiver shall report any change in such information to the
121 department not later than five business days after such change. The
122 department shall issue a registration certificate to the qualifying
123 patient and to the primary caregiver and may charge a reasonable fee,
124 not to exceed twenty-five dollars, for a registration under this
125 subsection. Any registration fees collected by the department under
126 this subsection shall be paid to the State Treasurer and credited to the
127 account established pursuant to section 510 of this act.

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

137 Sec. 504. (NEW) (*Effective October 1, 2011*) (a) The Commissioner of
138 Consumer Protection may adopt regulations, in accordance with
139 chapter 54 of the general statutes, to establish (1) a standard form for
140 written certifications for the palliative use of marijuana issued by
141 physicians under subdivision (2) of subsection (a) of section 502 of this
142 act, and (2) procedures for registrations under section 503 of this act.

143 (b) The Commissioner of Consumer Protection shall adopt
144 regulations, in accordance with chapter 54 of the general statutes, to
145 establish a reasonable fee to be collected from each qualifying patient
146 to whom a written certification for the palliative use of marijuana is
147 issued under subdivision (2) of subsection (a) of section 502 of this act,
148 for the purpose of offsetting the direct and indirect costs of
149 administering the provisions of sections 501 to 509, inclusive, of this
150 act. The commissioner shall collect such fee at the time the qualifying
151 patient registers with the Department of Consumer Protection under
152 subsection (a) of section 503 of this act. Such fee shall be in addition to
153 any registration fee that may be charged under said subsection. The
154 fees required to be collected by the commissioner from qualifying
155 patients under this subsection shall be paid to the State Treasurer and
156 credited to the account established pursuant to section 510 of this act.

157 Sec. 505. (NEW) (*Effective October 1, 2011*) Nothing in sections 501 to
158 509, inclusive, of this act shall be construed to require health insurance
159 coverage for the palliative use of marijuana.

160 Sec. 506. (NEW) (*Effective October 1, 2011*) (a) A qualifying patient or
161 a primary caregiver may assert the palliative use of marijuana as an
162 affirmative defense to any prosecution involving marijuana, or
163 paraphernalia relating to marijuana, under chapter 420b of the general
164 statutes or any other provision of the general statutes, provided such
165 qualifying patient or such primary caregiver has strictly complied with
166 the requirements of sections 501 to 509, inclusive, of this act.

167 (b) No person shall be subject to arrest or prosecution solely for
168 being in the presence or vicinity of the palliative use of marijuana as
169 permitted under sections 501 to 509, inclusive, of this act.

170 Sec. 507. (NEW) (*Effective October 1, 2011*) A physician shall not be
171 subject to arrest or prosecution, penalized in any manner, including,
172 but not limited to, being subject to any civil penalty, or denied any
173 right or privilege, including, but not limited to, being subject to any
174 disciplinary action by the Connecticut Medical Examining Board or

175 other professional licensing board, for providing a written certification
176 for the palliative use of marijuana under subdivision (2) of subsection
177 (a) of section 502 of this act if:

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

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

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

189 Sec. 508. (NEW) (*Effective October 1, 2011*) Any marijuana,
190 paraphernalia relating to marijuana, or other property seized by law
191 enforcement officials from a qualifying patient or a primary caregiver
192 in connection with a claimed palliative use of marijuana under sections
193 501 to 509, inclusive, of this act shall be returned to the qualifying
194 patient or the primary caregiver immediately upon the determination
195 by a court that the qualifying patient or the primary caregiver is
196 entitled to the palliative use of marijuana under sections 501 to 509,
197 inclusive, of this act, as evidenced by a decision not to prosecute, a
198 dismissal of charges or an acquittal. Law enforcement officials seizing
199 live marijuana plants as evidence shall not be responsible for the care
200 and maintenance of such plants. This section does not apply to any
201 qualifying patient or primary caregiver who fails to comply with the
202 requirements for the palliative use of marijuana under sections 501 to
203 509, inclusive, of this act.

204 Sec. 509. (NEW) (*Effective October 1, 2011*) (a) Any person who
205 makes a fraudulent representation to a law enforcement official of any
206 fact or circumstance relating to the palliative use of marijuana in order

207 to avoid arrest or prosecution under chapter 420b of the general
208 statutes or any other provision of the general statutes shall be guilty of
209 a class C misdemeanor.

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

215 Sec. 510. (NEW) (*Effective July 1, 2011*) There is established a
216 palliative marijuana administration account which shall be a separate,
217 nonlapsing account within the General Fund. The account shall
218 contain any fees collected pursuant to subsection (a) of section 503 of
219 this act, the fees collected pursuant to subsection (b) of section 504 of
220 this act, and any other moneys required by law to be deposited in the
221 account, and shall be held in trust separate and apart from all other
222 moneys, funds and accounts. Any balance remaining in the account at
223 the end of any fiscal year shall be carried forward in the account for
224 the fiscal year next succeeding. Investment earnings credited to the
225 account shall become part of the account. Amounts in the account shall
226 be expended only pursuant to appropriation by the General Assembly
227 for the purpose of providing funds to the Department of Consumer
228 Protection for administering the provisions of sections 501 to 509,
229 inclusive, of this act."