

An amendment to the affirmative defense clause of Bill 5038

My name is Alex Krupp and I'm from New Canaan. I'm here today to testify in support of bill 5038, An Act Concerning The Palliative Use of Marijuana. I would also like to propose an amendment to the affirmative defense portion of the bill.

As it currently stands, the proposed bill would allow a qualifying patient to assert an affirmative defense if and only if they have strictly complied with all of the requirements of this act.

This provision unfortunately provides only very limited benefits because if a patient has already complied with all of the requirements of the act, they shouldn't have been arrested in the first place.

In order to make this law more consistent with the best practices established in other states like Oregon, Michigan, and Rhode Island, I would propose expanding this measure to add an additional safety valve to the affirmative defense clause

This extension would allow patients who have received a valid medical marijuana recommendation from another state to assert the affirmative defense in trial.

To be clear, this would not legalize marijuana for those with palliative use recommendations from other states, nor would it allow those with recommendations from other states to use the proposed dispensary system. These individuals, if caught with marijuana, would still be subject to arrest and prosecution. So this would not be a get out of jail free card. Rather, it would merely provide a safety valve to keep people who don't belong in prison out of the corrections system.

This proposed amendment to Sec. 5 would read as follows:

Any person may assert the palliative use of marijuana as an affirmative defense to any prosecution involving marijuana, or paraphernalia relating to marijuana, under chapter 420b of the general statutes or any other provision of the general statutes. This defense shall be presumed valid where the evidence shows:

(1) such person has strictly complied as a qualifying patient or caregiver with the requirements of sections 1 to 15, inclusive, of this act; or

(2) such person has held a recommendation for the palliative use of marijuana valid under the laws of any state within the last five years.