



General Assembly

January Session, 2015

***Raised Bill No. 7057***

LCO No. 6182



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:  
(FIN)

***AN ACT ESTABLISHING A SURCHARGE ON PALLIATIVE MARIJUANA PRODUCERS AND EXPANDING THE CONDITIONS THAT QUALIFY FOR THE PALLIATIVE USE OF MARIJUANA.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-408 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 As used in this section and sections [21a-408] 21a-408a to 21a-408o,  
4 inclusive, unless the context otherwise requires:

5 (1) "Controlled substance" means a controlled substance, as defined  
6 in section 21a-240, in schedule II, III, IV or V, except that "controlled  
7 substance" does not include marijuana prescribed for palliative use  
8 pursuant to this chapter;

9 ~~[(1)]~~ (2) "Cultivation" includes planting, propagating, cultivating,  
10 growing and harvesting;

11 ~~[(2)]~~ (3) "Debilitating medical condition" means (A) cancer,

12 glaucoma, positive status for human immunodeficiency virus or  
13 acquired immune deficiency syndrome, Parkinson's disease, multiple  
14 sclerosis, damage to the nervous tissue of the spinal cord with  
15 objective neurological indication of intractable spasticity, epilepsy,  
16 cachexia, wasting syndrome, Crohn's disease, posttraumatic stress  
17 disorder, [or] (B) any medical condition, medical treatment or disease  
18 approved by the Department of Consumer Protection pursuant to  
19 regulations adopted under section 21a-408m, or (C) any medical  
20 condition or disease for which a controlled substance has been  
21 prescribed by a physician in excess of a thirty-day supply;

22 [(3)] (4) "Licensed dispensary" or "dispensary" means a person  
23 licensed as a dispensary pursuant to section 21a-408h;

24 [(4)] (5) "Licensed producer" or "producer" means a person licensed  
25 as a producer pursuant to section 21a-408i;

26 [(5)] (6) "Marijuana" means marijuana, as defined in section 21a-240;

27 [(6)] (7) "Palliative use" means the acquisition, distribution, transfer,  
28 possession, use or transportation of marijuana or paraphernalia  
29 relating to marijuana, including the transfer of marijuana and  
30 paraphernalia relating to marijuana from the patient's primary  
31 caregiver to the qualifying patient, to alleviate a qualifying patient's  
32 symptoms of a debilitating medical condition or the effects of such  
33 symptoms, but does not include any such use of marijuana by any  
34 person other than the qualifying patient;

35 [(7)] (8) "Paraphernalia" means drug paraphernalia, as defined in  
36 section 21a-240;

37 [(8)] (9) "Physician" means a person who is licensed under chapter  
38 370, but does not include a physician assistant, as defined in section 20-  
39 12a;

40 [(9)] (10) "Primary caregiver" means a person, other than the

41 qualifying patient and the qualifying patient's physician, who is  
42 eighteen years of age or older and has agreed to undertake  
43 responsibility for managing the well-being of the qualifying patient  
44 with respect to the palliative use of marijuana, provided (A) in the case  
45 of a qualifying patient lacking legal capacity, such person shall be a  
46 parent, guardian or person having legal custody of such qualifying  
47 patient, and (B) the need for such person shall be evaluated by the  
48 qualifying patient's physician and such need shall be documented in  
49 the written certification;

50 [(10)] (11) "Qualifying patient" means a person who is eighteen  
51 years of age or older, is a resident of Connecticut and has been  
52 diagnosed by a physician as having a debilitating medical condition.  
53 "Qualifying patient" does not include an inmate confined in a  
54 correctional institution or facility under the supervision of the  
55 Department of Correction;

56 [(11)] (12) "Usable marijuana" means the dried leaves and flowers of  
57 the marijuana plant, and any mixtures or preparations of such leaves  
58 and flowers, that are appropriate for the palliative use of marijuana,  
59 but does not include the seeds, stalks and roots of the marijuana plant;  
60 and

61 [(12)] (13) "Written certification" means a written certification issued  
62 by a physician pursuant to section 21a-408c.

63 Sec. 2. (NEW) (*Effective October 1, 2016*) (a) For the purposes of this  
64 section:

65 (1) "Licensed producer" or "producer" means a producer licensed to  
66 cultivate, sell, deliver, transport or distribute marijuana for palliative  
67 use pursuant to section 21a-408i of the general statutes;

68 (2) "Licensed dispensary" means a dispensary licensed to acquire,  
69 possess, distribute and dispense marijuana for palliative use pursuant  
70 to section 21a-408h of the general statutes; and

71 (3) "Marijuana" means pharmaceutical grade marijuana for  
72 palliative use that is distributed in accordance with chapter 420f of the  
73 general statutes.

74 (b) (1) Not later than December 15, 2016, and annually thereafter,  
75 the Commissioner of Consumer Protection shall determine the number  
76 of qualifying patients who hold valid registration certificates issued  
77 from the Department of Consumer Protection pursuant to subsection  
78 (a) of section 21a-408a of the general statutes.

79 (2) On and after January 1, 2017, there shall be paid to the  
80 Commissioner of Revenue Services by each licensed producer a  
81 surcharge on its gross receipts in accordance with the following  
82 schedule for any marijuana distributed by the producer to a licensed  
83 dispensary:

84 (A) For the calendar year commencing January 1, 2017, a surcharge  
85 of three per cent of gross receipts, except that if the commissioner  
86 determines that at least twenty-one thousand qualifying patients hold  
87 valid registration certificates as of December 15, 2016, the surcharge  
88 shall be calculated pursuant to the alternate schedule set forth in  
89 subparagraph (I) of this subdivision.

90 (B) For the calendar year commencing January 1, 2018, a surcharge  
91 of three and one-half per cent of gross receipts, except that if the  
92 commissioner determines that at least twenty-six thousand qualifying  
93 patients hold valid registration certificates as of December 15, 2017, the  
94 surcharge shall be calculated pursuant to the alternate schedule set  
95 forth in subparagraph (I) of this subdivision.

96 (C) For the calendar year commencing January 1, 2019, a surcharge  
97 of four per cent of gross receipts, except that if the commissioner  
98 determines that at least thirty-one thousand qualifying patients hold  
99 valid registration certificates as of December 15, 2018, the surcharge  
100 shall be calculated pursuant to the alternate schedule set forth in  
101 subparagraph (I) of this subdivision.

102 (D) For the calendar year commencing January 1, 2020, a surcharge  
103 of four and one-half per cent of gross receipts, except that if the  
104 commissioner determines that at least thirty-one thousand qualifying  
105 patients hold valid registration certificates as of December 15, 2019, the  
106 surcharge shall be calculated pursuant to the alternate schedule set  
107 forth in subparagraph (I) of this subdivision.

108 (E) For the calendar year commencing January 1, 2021, a surcharge  
109 of five per cent of gross receipts, except that if the commissioner  
110 determines that at least thirty-six thousand qualifying patients hold  
111 valid registration certificates as of December 15, 2020, the surcharge  
112 shall be calculated pursuant to subparagraph (I) of this subdivision.

113 (F) For the calendar year commencing January 1, 2022, a surcharge  
114 of five and one-half per cent of gross receipts, except that if the  
115 commissioner determines that at least thirty-six thousand qualifying  
116 patients hold valid registration certificates as of December 15, 2021, the  
117 surcharge shall be calculated pursuant to the alternate schedule set  
118 forth in subparagraph (I) of this subdivision.

119 (G) For the calendar year commencing January 1, 2023, a surcharge  
120 of six per cent of gross receipts, except that if the commissioner  
121 determines that at least forty-one thousand qualifying patients hold  
122 valid registration certificates as of December 15, 2022, the surcharge  
123 shall be calculated pursuant to the alternate schedule set forth in  
124 subparagraph (I) of this subdivision.

125 (H) For the calendar year commencing January 1, 2024, and each  
126 calendar year thereafter, a surcharge of six and one-half per cent of  
127 gross receipts, except that if the commissioner determines that at least  
128 forty-one thousand qualifying patients hold valid registration  
129 certificates as of the preceding December fifteenth, the surcharge shall  
130 be calculated pursuant to the alternate schedule set forth in  
131 subparagraph (I) of this subdivision.

132 (I) For the purposes of this subdivision, the alternate schedule shall

133 be calculated as follows:

| T1  | Number of Qualifying Patients | Surcharge Amount |
|-----|-------------------------------|------------------|
| T2  | 16,000 to 20,999              | 3%               |
| T3  | 21,000 to 25,999              | 3.5%             |
| T4  | 26,000 to 30,999              | 4%               |
| T5  | 31,000 to 35,999              | 5%               |
| T6  | 36,000 to 40,999              | 6%               |
| T7  | 41,000 to 45,999              | 7%               |
| T8  | 46,000 to 50,999              | 8%               |
| T9  | 51,000 to 55,999              | 9%               |
| T10 | 56,000                        | 10%              |

134 (c) Each licensed producer shall register with the Commissioner of  
135 Revenue Services on forms prescribed by the commissioner not later  
136 than October 1, 2016, and each registered producer shall renew its  
137 registration with the commissioner annually, in such manner as the  
138 commissioner may prescribe. No licensed producer may engage in or  
139 transact business as a producer unless such producer is registered with  
140 the commissioner in accordance with the provisions of this section.  
141 Any producer that fails to register or renew such registration in  
142 accordance with the provisions of this subsection shall pay a penalty of  
143 one thousand dollars for each such failure, which penalty shall not be  
144 subject to waiver.

145 (d) Each producer shall submit a return quarterly to the  
146 Commissioner of Revenue Services, applicable with respect to the

147 calendar quarter beginning January 1, 2017, and each calendar quarter  
148 thereafter, on or before the last day of the month immediately  
149 following the end of each such calendar quarter, on a form prescribed  
150 by the commissioner, together with payment of the quarterly  
151 surcharge determined and payable in accordance with the provisions  
152 of this section. Whenever such surcharge is not paid when due, a  
153 penalty of ten per cent of the amount due or fifty dollars, whichever is  
154 greater, shall be imposed, and such surcharge shall bear interest at the  
155 rate of one per cent per month or fraction thereof until the same is  
156 paid. The Commissioner of Revenue Services shall cause copies of a  
157 form prescribed for submitting returns as required under this section  
158 to be distributed to persons subject to the surcharge. Failure to receive  
159 such form shall not be construed to relieve any person subject to the  
160 surcharge under this section from the obligations of submitting a  
161 return, together with payment of such surcharge within the time  
162 required. The provisions of sections 12-548 to 12-554, inclusive, of the  
163 general statutes and sections 12-555a and 12-555b of the general  
164 statutes shall apply to the provisions of this section in the same  
165 manner and with the same force and effect as if the language of said  
166 sections 12-548 to 12-554, inclusive, and sections 12-555a and 12-555b  
167 had been incorporated in full into this section and had expressly  
168 referred to the surcharge imposed under this section, except to the  
169 extent that any such provision is inconsistent with a provision of this  
170 section and except that the term "tax" shall be read as "licensed  
171 producer surcharge". Any moneys received by the commissioner  
172 pursuant to this section shall be deposited into the General Fund.

173 (e) The Commissioner of Revenue Services shall notify the  
174 Commissioner of Consumer Protection whenever a licensed producer  
175 has continuously failed to comply with the requirements of this section  
176 for a period of at least six months. The Commissioner of Consumer  
177 Protection may suspend, revoke or refuse to renew the license of a  
178 producer who has continuously failed to comply with the  
179 requirements of this section for a period of six months or longer.

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>July 1, 2015</i>    | 21a-408     |
| Sec. 2  | <i>October 1, 2016</i> | New section |

***Statement of Purpose:***

To (1) establish a surcharge on licensed producers' gross receipts of palliative marijuana sold to licensed dispensaries, and (2) allow the palliative use of marijuana for medical conditions and diseases for which a controlled substance is prescribed for a period greater than thirty days.

*[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.]*