



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5938

by Rep. Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

New Act

720 ILCS 550/8

720 ILCS 550/11 rep.

from Ch. 56 1/2, par. 708

Creates the Alternative Treatment for Serious Diseases Causing Chronic Pain and Debilitating Conditions Act. Provides that when a person has been diagnosed by a physician as having a debilitating medical condition, the person and the person's primary caregiver may be issued a registry identification card by the Department of Public Health that permits the person or the person's primary caregiver to legally possess no more than 12 cannabis plants and 2.5 ounces of usable cannabis. Amends the Cannabis Control Act to make conforming changes. Provides that the provisions of the Act are severable. Effective immediately.

LRB095 20022 RLC 46458 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1           AN ACT concerning alternative treatment for serious  
2 diseases causing chronic pain and debilitating conditions.

3           **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5           Section 1. Short title. This Act may be cited as the  
6 Alternative Treatment for Serious Diseases Causing Chronic  
7 Pain and Debilitating Conditions Act.

8           Section 5. Findings.

9           (a) Modern medical research has discovered beneficial uses  
10 for marijuana in treating or alleviating the pain, nausea, and  
11 other symptoms associated with a variety of debilitating  
12 medical conditions, as found by the National Academy of  
13 Sciences' Institute of Medicine in March 1999.

14           (b) Subsequent studies since the 1999 National Academy of  
15 Sciences' Institute of Medicine report continue to show the  
16 therapeutic value of marijuana in treating a wide array of  
17 debilitating medical conditions, including increasing the  
18 chances of patients finishing their treatments for HIV/AIDS and  
19 hepatitis C.

20           (c) Data from the Federal Bureau of Investigation's Uniform  
21 Crime Reports and the Compendium of Federal Justice Statistics  
22 show that approximately 99 out of every 100 marijuana arrests  
23 in the U.S. are made under state law, rather than under federal

1 law. Consequently, changing state law will have the practical  
2 effect of protecting from arrest the vast majority of seriously  
3 ill people who have a medical need to use marijuana.

4 (d) Although federal law currently prohibits any use of  
5 marijuana except under very limited circumstances, Alaska,  
6 California, Colorado, Hawaii, Maine, Montana, Nevada, New  
7 Mexico, Oregon, Vermont, Rhode Island, and Washington have  
8 removed state-level criminal penalties from the medical use and  
9 cultivation of marijuana. Illinois joins in this effort for the  
10 health and welfare of its citizens.

11 (e) States are not required to enforce federal law or  
12 prosecute people for engaging in activities prohibited by  
13 federal law. Therefore, compliance with this Act does not put  
14 the State of Illinois in violation of federal law.

15 (f) State law should make a distinction between the medical  
16 and non-medical uses of marijuana. Hence, the purpose of this  
17 Act is to protect patients with debilitating medical  
18 conditions, as well as their practitioners and primary  
19 caregivers, from arrest and prosecution, criminal and other  
20 penalties, and property forfeiture if such patients engage in  
21 the medical use of marijuana.

22 (g) The people of the State of Illinois declare that they  
23 enact this Act pursuant to the police power to protect the  
24 health of its citizens that is reserved to the State of  
25 Illinois and its people under the 10th Amendment to the United  
26 States Constitution.

1 Section 10. Definitions. The following terms, as used in  
2 this Act, shall have the meanings set forth in this Section:

3 (a) "Cardholder" means a qualifying patient or a primary  
4 caregiver who has been issued and possesses a valid registry  
5 identification card.

6 (b) "Debilitating medical condition" means one or more of  
7 the following:

8 (1) cancer, glaucoma, positive status for human  
9 immunodeficiency virus, acquired immune deficiency  
10 syndrome, hepatitis C, amyotrophic lateral sclerosis,  
11 Crohn's disease, agitation of Alzheimer's disease, nail  
12 patella, or the treatment of these conditions;

13 (2) a chronic or debilitating disease or medical  
14 condition or its treatment that produces one or more of the  
15 following: cachexia or wasting syndrome; severe pain;  
16 severe nausea; seizures, including but not limited to those  
17 characteristic of epilepsy; or severe and persistent  
18 muscle spasms, including but not limited to those  
19 characteristic of multiple sclerosis; or

20 (3) any other medical condition or its treatment  
21 approved by the Department, as provided for in subsection  
22 (a) of Section 20.

23 (c) "Department" means the Department of Public Health, or  
24 its successor agency.

25 (d) "Enclosed, locked facility" means a closet, room,

1 greenhouse, or other enclosed area equipped with locks or other  
2 security devices that permit access only by a registered  
3 primary caregiver or registered qualifying patient.

4 (e) "Felony drug offense" means a violation of a state or  
5 federal controlled substance law that was classified as a  
6 felony in the jurisdiction where the person was convicted. It  
7 does not include:

8 (1) an offense for which the sentence, including any  
9 term of probation, incarceration, or supervised release,  
10 was completed 10 or more years earlier; or

11 (2) an offense that involved conduct that would have  
12 been permitted under this Act.

13 (f) "Marijuana" has the meaning given to the term cannabis  
14 in Section 3 of the Cannabis Control Act.

15 (g) "Medical use" means the acquisition, possession,  
16 cultivation, manufacture, use, delivery, transfer, or  
17 transportation of marijuana or paraphernalia relating to the  
18 administration of marijuana to treat or alleviate a registered  
19 qualifying patient's debilitating medical condition or  
20 symptoms associated with the patient's debilitating medical  
21 condition.

22 (h) "Practitioner" means a person who is licensed with  
23 authority to prescribe drugs under Article III of the Illinois  
24 Controlled Substance Act.

25 (i) "Primary caregiver" means a person who is at least 21  
26 years old, who has agreed to assist with a patient's medical

1 use of marijuana, and who has never been convicted of a felony  
2 drug offense. A primary caregiver may assist no more than 5  
3 qualifying patients with their medical use of marijuana.

4 (j) "Qualifying patient" means a person who has been  
5 diagnosed by a practitioner as having a debilitating medical  
6 condition.

7 (k) "Registry identification card" means a document issued  
8 by the Department that identifies a person as a registered  
9 qualifying patient or registered primary caregiver.

10 (l) "Usable marijuana" means the dried leaves and flowers  
11 of the marijuana plant, and any mixture or preparation thereof,  
12 but does not include the seeds, stalks, and roots of the plant  
13 and does not include the weight of other ingredients in  
14 marijuana prepared for consumption as food.

15 (m) "Visiting qualifying patient" means a patient who is  
16 not a resident of Illinois or who has been a resident of  
17 Illinois less than 30 days.

18 (n) "Written certification" means a document signed by a  
19 practitioner, stating that in the practitioner's professional  
20 opinion the patient is likely to receive therapeutic or  
21 palliative benefit from the medical use of marijuana to treat  
22 or alleviate the patient's debilitating medical condition or  
23 symptoms associated with the debilitating medical condition. A  
24 written certification shall be made only in the course of a  
25 bona fide practitioner-patient relationship after the  
26 practitioner has completed a full assessment of the qualifying

1 patient's medical history. The written certification shall  
2 specify the qualifying patient's debilitating medical  
3 condition.

4 Section 15. Protections for the medical use of marijuana.

5 (a) A qualifying patient who has been issued and possesses  
6 a registry identification card shall not be subject to arrest,  
7 prosecution, or penalty in any manner, or denied any right or  
8 privilege, including but not limited to civil penalty or  
9 disciplinary action by a business or occupational or  
10 professional licensing board or bureau, for the medical use of  
11 marijuana in accordance with this Act, provided that the  
12 qualifying patient possesses an amount of marijuana that does  
13 not exceed 12 marijuana plants and two-and-one-half ounces of  
14 usable marijuana. Such plants shall be kept in an enclosed,  
15 locked facility, unless they are being transported because the  
16 qualifying patient is moving or if they are being transported  
17 to the qualifying patient's property. Any incidental amount of  
18 seeds, stalks, and unusable roots shall also be allowed under  
19 state law and shall not be included in this amount.

20 (b) A primary caregiver who has been issued and possesses a  
21 registry identification card shall not be subject to arrest,  
22 prosecution, or penalty in any manner, or denied any right or  
23 privilege, including but not limited to civil penalty or  
24 disciplinary action by a business or occupational or  
25 professional licensing board or bureau, for assisting a

1 qualifying patient to whom he or she is connected through the  
2 Department's registration process with the medical use of  
3 marijuana in accordance with this Act, provided that the  
4 primary caregiver possesses an amount of marijuana that does  
5 not exceed 12 marijuana plants and two-and-one-half ounces of  
6 usable marijuana for each qualifying patient to whom he or she  
7 is connected through the Department's registration process.  
8 Such plants shall be kept in an enclosed, locked facility,  
9 unless they are being transported because the primary caregiver  
10 is moving or if they are being transported to a primary  
11 caregiver's or a qualifying patient's property. Any incidental  
12 amount of seeds, stalks, and unusable roots shall also be  
13 allowed under state law and shall not be included in this  
14 amount.

15 (c) (1) There shall be a presumption that a qualifying  
16 patient or primary caregiver is engaged in the medical use of  
17 marijuana in accordance with this Act if the qualifying patient  
18 or primary caregiver:

19 (A) is in possession of a registry identification  
20 card; and

21 (B) is in possession of an amount of marijuana that  
22 does not exceed the amount allowed under this Act.

23 (2) The presumption may be rebutted by evidence that  
24 conduct related to marijuana was not for the purpose of  
25 treating or alleviating the qualifying patient's  
26 debilitating medical condition or symptoms associated with



1 the debilitating medical condition, in accordance with  
2 this Act.

3 (d) A cardholder shall not be subject to arrest,  
4 prosecution, or penalty in any manner, or denied any right or  
5 privilege, including but not limited to civil penalty or  
6 disciplinary action by a business or occupational or  
7 professional licensing board or bureau, for giving marijuana to  
8 a registered qualifying patient or a registered primary  
9 caregiver for the registered qualifying patient's medical use  
10 where nothing of value is transferred in return, or to offer to  
11 do the same.

12 (e) No school, employer, or landlord may refuse to enroll  
13 or employ or lease to, or otherwise penalize a person solely  
14 for his or her status as a registered qualifying patient or a  
15 registered primary caregiver, unless failing to do so would put  
16 the school, employer, or landlord in violation of federal law  
17 or cause it to lose a federal contract or funding.

18 (f) A person shall not be denied custody or visitation of a  
19 minor for acting in accordance with this Act, unless the  
20 person's behavior is such that it creates an unreasonable  
21 danger to the minor that can be clearly articulated and  
22 substantiated.

23 (g) A registered primary caregiver may receive  
24 compensation for costs associated with assisting a registered  
25 qualifying patient's medical use of marijuana, provided that  
26 registered primary caregiver is connected to the registered

1 qualifying patient through the Department's registration  
2 process. Any such compensation shall not constitute the sale of  
3 controlled substances.

4 (h) A practitioner shall not be subject to arrest,  
5 prosecution, or penalty in any manner, or denied any right or  
6 privilege, including but not limited to civil penalty or  
7 disciplinary action by the Medical Disciplinary Board or by any  
8 other business or occupational or professional licensing board  
9 or bureau, solely for providing written certifications or for  
10 otherwise stating that, in the practitioner's professional  
11 opinion, a patient is likely to receive therapeutic benefit  
12 from the medical use of marijuana to treat or alleviate the  
13 patient's serious or debilitating medical condition or  
14 symptoms associated with the serious or debilitating medical  
15 condition, provided that nothing shall prevent a professional  
16 licensing board from sanctioning a practitioner for failing to  
17 properly evaluate a patient's medical condition or otherwise  
18 violating the standard of care for evaluating medical  
19 conditions.

20 (i) A person shall not be subject to arrest, prosecution,  
21 or penalty in any manner, or denied any right or privilege,  
22 including but not limited to civil penalty or disciplinary  
23 action by a business or occupational or professional licensing  
24 board or bureau, for providing a registered qualifying patient  
25 or a registered primary caregiver with marijuana paraphernalia  
26 for purposes of a qualifying patient's medical use of

1 marijuana.

2 (j)(1) Any marijuana, marijuana paraphernalia, licit  
3 property, or interest in licit property that is possessed,  
4 owned, or used in connection with the medical use of marijuana,  
5 as allowed under this Act, or acts incidental to such use,  
6 shall not be seized or forfeited.

7 (2) A law enforcement agency that seizes and does not  
8 return marijuana that is possessed in accordance with this  
9 Act by a registered qualifying patient or a registered  
10 primary caregiver shall be liable to the cardholder for the  
11 fair market value of the marijuana.

12 (k) A person shall not be subject to arrest, prosecution,  
13 or penalty in any manner, or denied any right or privilege,  
14 including but not limited to civil penalty or disciplinary  
15 action by a business or occupational or professional licensing  
16 board or bureau, simply for being in the presence or vicinity  
17 of the medical use of marijuana as allowed under this Act, or  
18 for assisting a registered qualifying patient with using or  
19 administering marijuana.

20 (l) A registry identification card, or its equivalent, that  
21 is issued under the laws of another state, district, territory,  
22 commonwealth, or insular possession of the United States that  
23 allows the medical use of marijuana by a visiting qualifying  
24 patient, shall have the same force and effect as a registry  
25 identification card issued by the Department.

26 (m) Any cardholder who sells marijuana to a person who is

1 not allowed to use marijuana for medical purposes under this  
2 Act shall have his or her registry identification card revoked,  
3 and is liable for any other penalties for the sale of  
4 marijuana. The Department may revoke the registry  
5 identification card of any cardholder who violates this Act,  
6 and the cardholder shall be liable for any other penalties for  
7 the violation.

8 Section 20. Department to issue rules.

9 (a) Not later than 120 days after the effective date of  
10 this Act, the Department shall promulgate rules governing the  
11 manner in which it shall consider petitions from the public to  
12 add debilitating medical conditions to the list of debilitating  
13 medical conditions set forth in subsection (b) of Section 10 of  
14 this Act. In considering such petitions, the Department shall  
15 include public notice of, and an opportunity to comment in a  
16 public hearing upon, such petitions. The Department shall,  
17 after hearing, approve or deny such petitions within 180 days  
18 of submission of the petition. The approval or denial of such a  
19 petition shall be considered a final Department action, subject  
20 to judicial review. Jurisdiction and venue for judicial review  
21 are vested in the Circuit Court.

22 (b) Not later than 120 days after the effective date of  
23 this Act, the Department shall promulgate rules governing the  
24 manner in which it shall consider applications for and renewals  
25 of registry identification cards for qualifying patients and

1 primary caregivers. The Department's rules shall establish  
2 application and renewal fees that generate revenues sufficient  
3 to offset all expenses of implementing and administering this  
4 Act. The Department may establish a sliding scale of  
5 application and renewal fees based upon a qualifying patient's  
6 family income. The Department may accept donations from private  
7 sources in order to reduce the application and renewal fees.

8 Section 25. Administering the Department's rules.

9 (a) The Department shall issue registry identification  
10 cards to qualifying patients who submit the following, in  
11 accordance with the Department's rules:

12 (1) written certification;

13 (2) application or renewal fee;

14 (3) name, address, and date of birth of the qualifying  
15 patient, except that if the applicant is homeless, no  
16 address is required;

17 (4) name, address, and telephone number of the  
18 qualifying patient's practitioner; and

19 (5) name, address, and date of birth of each primary  
20 caregiver, if any, of the qualifying patient.

21 (b) The Department shall not issue a registry  
22 identification card to a qualifying patient who is under the  
23 age of 18 unless:

24 (1) The qualifying patient's practitioner has  
25 explained the potential risks and benefits of the medical

1 use of marijuana to the qualifying patient and to a parent,  
2 guardian, or person having legal custody of the qualifying  
3 patient; and

4 (2) The parent, guardian, or person having legal  
5 custody consents in writing to:

6 (A) allow the qualifying patient's medical use of  
7 marijuana;

8 (B) serve as one of the qualifying patient's  
9 primary caregivers; and

10 (C) control the acquisition of the marijuana, the  
11 dosage, and the frequency of the medical use of  
12 marijuana by the qualifying patient.

13 (c) The Department shall verify the information contained  
14 in an application or renewal submitted pursuant to this  
15 Section, and shall approve or deny an application or renewal  
16 within 15 days of receiving it. The Department may deny an  
17 application or renewal only if the applicant did not provide  
18 the information required pursuant to this Section, or if the  
19 Department determines that the information provided was  
20 falsified. Rejection of an application or renewal is considered  
21 a final Department action, subject to judicial review.  
22 Jurisdiction and venue for judicial review are vested in the  
23 Illinois Circuit Court.

24 (d) The Department shall issue a registry identification  
25 card to each primary caregiver, if any, who is named in a  
26 qualifying patient's approved application, up to a maximum of 2

1 primary caregivers per qualifying patient.

2 (e) The Department shall issue registry identification  
3 cards within 5 days of approving an application or renewal,  
4 which shall expire one year after the date of issuance.  
5 Registry identification cards shall contain all of the  
6 following:

7 (1) Name, address, and date of birth of the qualifying  
8 patient;

9 (2) Name, address, and date of birth of each primary  
10 caregiver, if any, of the qualifying patient;

11 (3) The date of issuance and expiration date of the  
12 registry identification card;

13 (4) A random identification number that is unique to  
14 the cardholder; and

15 (5) A photograph, if the Department decides to require  
16 one.

17 (f)(1) A registered qualifying patient shall notify the  
18 Department of any change in the registered qualifying patient's  
19 name, address, or primary caregiver, or if the registered  
20 qualifying patient ceases to have his or her debilitating  
21 medical condition, within 10 days of such change.

22 (2) A registered qualifying patient who fails to notify  
23 the Department of any of these changes is responsible for a  
24 civil infraction, punishable by a fine of no more than  
25 \$150. If the registered qualifying patient's certifying  
26 practitioner notifies the Department in writing that the

1 registered qualifying patient has ceased to suffer from a  
2 debilitating medical condition, the card shall become null  
3 and void upon notification by the Department to the  
4 qualifying patient.

5 (3) A registered primary caregiver shall notify the  
6 Department of any change in his or her name or address  
7 within 10 days of such change. A registered primary  
8 caregiver who fails to notify the Department of any of  
9 these changes is responsible for a civil infraction,  
10 punishable by a fine of no more than \$150.

11 (4) When a registered qualifying patient or registered  
12 primary caregiver notifies the Department of any changes  
13 listed in this subsection, the Department shall issue the  
14 registered qualifying patient and each registered primary  
15 caregiver a new registry identification card within 10 days  
16 of receiving the updated information and a \$10 fee.

17 (5) When a registered qualifying patient changes his or  
18 her registered primary caregiver, the Department shall  
19 notify the primary caregiver within 10 days. The registered  
20 primary caregiver's protections as provided in this Act  
21 shall expire 10 days after notification by the Department.

22 (6) If a registered qualifying patient or registered  
23 primary caregiver loses his or her registry identification  
24 card, he or she shall notify the Department and submit a  
25 \$10 fee within 10 days of losing the card. Within 5 days  
26 after such notification, the Department shall issue a new



1 registry identification card with a new random  
2 identification number.

3 (g) Possession of, or application for, a registry  
4 identification card shall not constitute probable cause or  
5 reasonable suspicion, nor shall it be used to support the  
6 search of the person or property of the person possessing or  
7 applying for the registry identification card.

8 (h) The following confidentiality rules shall apply:

9 (1) Applications and supporting information submitted  
10 by qualifying patients, including information regarding  
11 their primary caregivers and practitioners, are  
12 confidential.

13 (2) The Department shall maintain a confidential list  
14 of the persons to whom the Department has issued registry  
15 identification cards. Individual names and other  
16 identifying information on the list shall be confidential,  
17 exempt from the Freedom of Information Act, and not subject  
18 to disclosure, except to authorized employees of the  
19 Department as necessary to perform official duties of the  
20 Department.

21 (3) The Department shall verify to law enforcement  
22 personnel whether a registry identification card is valid,  
23 without disclosing more information than is reasonably  
24 necessary to verify the authenticity of the registry  
25 identification card.

26 (4) It is a Class B misdemeanor for any person,

1 including an employee or official of the Department or  
2 another state agency or local government, to breach the  
3 confidentiality of information obtained pursuant to this  
4 Act. Notwithstanding this provision, Department employees  
5 may notify law enforcement about falsified or fraudulent  
6 information submitted to the Department, so long as the  
7 employee who suspects that falsified or fraudulent  
8 information has been submitted confers with his or her  
9 supervisor (or at least one other employee of the  
10 Department) and both agree that circumstances exist that  
11 warrant reporting.

12 (i) The Department shall submit to the General Assembly an  
13 annual report that does not disclose any identifying  
14 information about qualifying patients, primary caregivers, or  
15 practitioners, but does contain, at a minimum, all of the  
16 following information:

17 (1) The number of applications and renewals filed for  
18 registry identification cards.

19 (2) The number of qualifying patients and primary  
20 caregivers approved in each county.

21 (3) The nature of the debilitating medical conditions  
22 of the qualifying patients.

23 (4) The number of registry identification cards  
24 revoked.

25 (5) The number of practitioners providing written  
26 certifications for qualifying patients.

1           (j) Where a state-funded or locally funded law enforcement  
2 agency encounters an individual who, during the course of the  
3 investigation, credibly asserts that he or she is a registered  
4 qualifying patient or registered primary caregiver, the law  
5 enforcement agency shall not provide any information from any  
6 marijuana-related investigation of the person to any law  
7 enforcement authority that does not recognize the protection of  
8 this Act and any prosecution of the individual for a violation  
9 of this Act shall be conducted pursuant to the laws of this  
10 State.

11           Section 30. Scope of Act.

12           (a) This Act shall not permit any person to do any of the  
13 following:

14                 (1) Undertake any task under the influence of  
15 marijuana, when doing so would constitute negligence or  
16 professional malpractice.

17                 (2) Possess marijuana, or otherwise engage in the  
18 medical use of marijuana:

19                         (A) in a school bus;

20                         (B) on the grounds of any preschool or primary or  
21 secondary school; or

22                         (C) in any correctional facility.

23                 (3) Smoke marijuana:

24                         (A) on any form of public transportation; or

25                         (B) in any public place.

1           (4) Operate, navigate, or be in actual physical control  
2           of any motor vehicle, aircraft, or motorboat while under  
3           the influence of marijuana. However, a registered  
4           qualifying patient shall not be considered to be under the  
5           influence of marijuana solely because of the presence of  
6           metabolites or components of marijuana that appear in  
7           insufficient concentration to cause impairment.

8           (b) Nothing in this Act shall be construed to require:

9           (1) A government medical assistance program or private  
10          health insurer to reimburse a person for costs associated  
11          with the medical use of marijuana; or

12          (2) An employer to accommodate the ingestion of  
13          marijuana in any workplace or any employee working while  
14          under the influence of marijuana, provided that a  
15          qualifying patient shall not be considered to be under the  
16          influence of marijuana solely because of the presence of  
17          metabolites or components of marijuana that appear in  
18          insufficient concentration to cause impairment.

19          (c) Fraudulent representation to a law enforcement  
20          official of any fact or circumstance relating to the medical  
21          use of marijuana to avoid arrest or prosecution is a petty  
22          offense punishable by a fine of \$500, which shall be in  
23          addition to any other penalties that may apply for making a  
24          false statement or for the use of marijuana other than use  
25          undertaken pursuant to this Act.

1 Section 35. Affirmative defense and dismissal for medical  
2 marijuana.

3 (a) Except as provided in Section 30, a patient and a  
4 patient's primary caregiver, if any, may assert the medical  
5 purpose for using marijuana as a defense to any prosecution  
6 involving marijuana, and this defense shall be presumed valid  
7 where the evidence shows that:

8 (1) A practitioner has stated that, in the  
9 practitioner's professional opinion, after having  
10 completed a full assessment of the patient's medical  
11 history and current medical condition made in the course of  
12 a bona fide practitioner-patient relationship, the patient  
13 is likely to receive therapeutic or palliative benefit from  
14 the medical use of marijuana to treat or alleviate the  
15 patient's serious or debilitating medical condition or  
16 symptoms associated with the patient's serious or  
17 debilitating medical condition; and

18 (2) The patient and the patient's primary caregiver, if  
19 any, were collectively in possession of a quantity of  
20 marijuana that was not more than was reasonably necessary  
21 to ensure the uninterrupted availability of marijuana for  
22 the purpose of treating or alleviating the patient's  
23 serious or debilitating medical condition or symptoms  
24 associated with the patient's serious or debilitating  
25 medical condition; and

26 (3) The patient and the patient's primary caregiver, if

1 any, were engaged in the acquisition, possession,  
2 cultivation, manufacture, use, delivery, transfer, or  
3 transportation of marijuana or paraphernalia relating to  
4 the administration of marijuana to treat or alleviate the  
5 patient's serious or debilitating medical condition or  
6 symptoms associated with the patient's serious or  
7 debilitating medical condition.

8 (b) A person may assert the medical purpose for using  
9 marijuana in a motion to dismiss, and the charges shall be  
10 dismissed following an evidentiary hearing where the person  
11 shows the elements listed in subsection (a).

12 (c) If a patient or a patient's primary caregiver  
13 demonstrates the patient's medical purpose for using marijuana  
14 pursuant to this Section, the patient and the patient's primary  
15 caregiver shall not be subject to the following for the  
16 patient's use of marijuana for medical purposes:

17 (1) disciplinary action by a business or occupational  
18 or professional licensing board or bureau; or

19 (2) forfeiture of any interest in or right to property.

20 Section 40. Enforcement of this Act.

21 (a) If the Department fails to adopt rules to implement  
22 this Act within 120 days of the effective date of this Act, a  
23 qualifying patient may commence an action in the Circuit Court  
24 to compel the Department to perform the actions mandated  
25 pursuant to the provisions of this Act.

1 (b) If the Department fails to issue a valid registry  
2 identification card in response to a valid application or  
3 renewal submitted pursuant to this Act within 20 days of its  
4 submission, the registry identification card shall be deemed  
5 granted, and a copy of the registry identification application  
6 or renewal shall be deemed a valid registry identification  
7 card.

8 (c) If at any time after the 140 days following the  
9 effective date of this Act the Department is not accepting  
10 applications, including if it has not created rules allowing  
11 qualifying patients to submit applications, a notarized  
12 statement by a qualifying patient containing the information  
13 required in an application, pursuant to clauses (a)(2) through  
14 (a)(5) of Section 25 together with a written certification  
15 shall be deemed a valid registry identification card.

16 Section 45. Medical marijuana organization.

17 (a) Definition. For purposes of this Section, "medical  
18 marijuana organization" means an entity registered under this  
19 Section that acquires, possesses, cultivates, manufactures,  
20 delivers, transfers, transports, supplies, or dispenses  
21 marijuana, or related supplies and educational materials, to  
22 registered qualifying patients and their registered primary  
23 caregivers. A medical marijuana organization is a primary  
24 caregiver. All provisions of this Act pertaining to a primary  
25 caregiver shall apply to a medical marijuana organization

1 unless they conflict with a provision contained in this  
2 Section. A medical marijuana organization shall supply  
3 marijuana to any number of registered qualifying patients who  
4 have designated it as one of their primary caregivers.

5 (b) Registration requirements.

6 (1) The Department shall register a medical marijuana  
7 organization and issue a registration certificate within  
8 20 days to any person or entity that provides:

9 (A) A fee paid to the Department in the amount of  
10 \$5,000;

11 (B) The legal name of the medical marijuana  
12 organization;

13 (C) The physical address of the medical marijuana  
14 organization and the physical address of one  
15 additional location, if any, where marijuana will be  
16 cultivated;

17 (D) The name, address, and date of birth of each  
18 principal officer and board member of the medical  
19 marijuana organization;

20 (E) The name, address, and date of birth of any  
21 person who is an agent of or employed by the medical  
22 marijuana organization.

23 (2) The Department shall track the number of registered  
24 qualifying patients who designate each medical marijuana  
25 organization as a primary caregiver, and issue a written  
26 statement to the medical marijuana organization of the



1 number of qualifying patients who have designated the  
2 medical marijuana organization to serve as a primary  
3 caregiver for them. This statement shall be updated each  
4 time a new registered qualifying patient designates the  
5 medical marijuana organization or ceases to designate the  
6 medical marijuana organization and may be transmitted  
7 electronically if the Department's rules so provide. The  
8 Department may provide by rule that the updated written  
9 statements will not be issued more frequently than twice  
10 each week.

11 (3) The Department shall issue each principal officer,  
12 board member, agent, and employee of a medical marijuana  
13 organization a registry identification card within 10 days  
14 of receipt of the person's name, address, date of birth,  
15 and a fee in an amount established by the Department. Each  
16 card shall specify that the cardholder is a principal  
17 officer, board member, agent, or employee of a medical  
18 marijuana organization and shall contain the following:

19 (A) The name, address, and date of birth of the  
20 principal officer, board member, agent or employee;

21 (B) The legal name of the medical marijuana  
22 organization to which the principal officer, board  
23 member, agent, or employee is affiliated;

24 (C) A random identification number that is unique  
25 to the cardholder;

26 (D) The date of issuance and expiration date of the

1 registry identification card; and

2 (E) A photograph, if the Department decides to  
3 require one.

4 (4) The Department shall not issue a registry  
5 identification card to any principal officer, board  
6 member, agent, or employee of a medical marijuana  
7 organization who has been convicted of a felony drug  
8 offense. The Department may conduct a background check of  
9 each principal officer, board member, agent, or employee in  
10 order to carry out this provision. The Department shall  
11 notify the medical marijuana organization in writing of the  
12 purpose for denying the registry identification card.  
13 However, the Department shall grant such person a registry  
14 identification card if the Department determines that the  
15 person's conviction was for the medical use of marijuana or  
16 assisting with the medical use of marijuana.

17 (c) Authority of the Department. Not later than 120 days  
18 after the effective date of this Act, the Department shall  
19 promulgate rules governing the manner in which it shall  
20 consider applications for and renewals of registration  
21 certificates for medical marijuana organizations, including  
22 rules governing:

23 (1) The form and content of registration and renewal  
24 applications;

25 (2) Minimum oversight requirements for medical  
26 marijuana organizations;

1           (3) Minimum record-keeping requirements for medical  
2 marijuana organizations;

3           (4) Minimum security requirements for medical  
4 marijuana organizations; and

5           (5) Procedures for suspending or terminating the  
6 registration of medical marijuana organizations that  
7 violate the provisions of this Section or the rules  
8 promulgated pursuant to this subsection.

9           (d) Expiration. A medical marijuana organization  
10 registration certificate and the registry identification card  
11 for each principal officer, board member, agent, or employee  
12 shall expire one year after the date of issuance. The  
13 Department shall issue a renewal medical marijuana  
14 organization registration certificate and renewal registry  
15 identification cards within 10 days to any person who complies  
16 with the requirements contained in subsection (b) of this  
17 Section.

18           (e) Inspection. Medical marijuana organizations are  
19 subject to reasonable inspection by the Department. The  
20 Department shall give reasonable notice of an inspection under  
21 this subsection.

22           (f) Medical marijuana organization requirements.

23           (1) A medical marijuana organization may not be located  
24 within 500 feet of the property line of a preexisting  
25 public or private school.

26           (2) A medical marijuana organization shall notify the

1 Department within 10 days of when a principal officer,  
2 board member, agent, or employee ceases to work at the  
3 medical marijuana organization.

4 (3) A medical marijuana organization shall notify the  
5 Department in writing of the name, address, and date of  
6 birth of any new principal officer, board member, agent, or  
7 employee and shall submit a fee in an amount established by  
8 the Department for a new registry identification card  
9 before a new agent or employee begins working at the  
10 medical marijuana organization.

11 (4) A medical marijuana organization shall implement  
12 appropriate security measures to deter and prevent  
13 unauthorized entrance into areas containing marijuana and  
14 the theft of marijuana.

15 (5) The operating documents of a medical marijuana  
16 organization shall include procedures for the oversight of  
17 the medical marijuana organization and procedures to  
18 ensure accurate record keeping.

19 (6) A medical marijuana organization is prohibited  
20 from acquiring, possessing, cultivating, manufacturing,  
21 delivering, transferring, transporting, supplying, or  
22 dispensing marijuana for any purpose except to assist  
23 registered qualifying patients with the medical use of  
24 marijuana directly or through the qualifying patients'  
25 other primary caregiver.

26 (7) All principal officers and board members of a

1 medical marijuana organization must be residents of the  
2 State of Illinois.

3 (g) Immunity.

4 (1) No registered medical marijuana organization shall  
5 be subject to prosecution, search, seizure, or penalty in  
6 any manner or denied any right or privilege, including but  
7 not limited to, civil penalty or disciplinary action by a  
8 business, occupational, or professional licensing board or  
9 entity, solely for acting in accordance with this Section  
10 to assist registered qualifying patients to whom it is  
11 connected through the Department's registration process  
12 with the medical use of marijuana.

13 (2) No principal officers, board members, agents, or  
14 employees of a registered medical marijuana organization  
15 shall be subject to arrest, prosecution, search, seizure,  
16 or penalty in any manner or denied any right or privilege,  
17 including but not limited to civil penalty or disciplinary  
18 action by a business, occupational, or professional  
19 licensing board or entity, solely for working for or with a  
20 medical marijuana organization in accordance with this  
21 Act.

22 (h) Prohibitions.

23 (1) A medical marijuana organization may not possess an  
24 amount of marijuana that exceeds the total of the allowable  
25 amounts of marijuana for the registered qualifying  
26 patients for whom the medical marijuana organization is a

1 registered primary caregiver.

2 (2) A medical marijuana organization may not dispense,  
3 deliver, or otherwise transfer marijuana to a person other  
4 than a qualifying patient who has designated the medical  
5 marijuana organization as a primary caregiver or to such  
6 patient's primary caregiver.

7 (3) A medical marijuana organization may not obtain  
8 marijuana from outside the State of Illinois.

9 (4) A person convicted of violating paragraph (2) of  
10 this subsection may not be an employee, agent, principal  
11 officer, or board member of any medical marijuana  
12 organization, and such person's registry identification  
13 card shall be immediately revoked.

14 (5) No person who has been convicted of a felony drug  
15 offense may be the principal officer, board member, agent,  
16 or employee of a medical marijuana organization unless the  
17 Department has determined that the person's conviction was  
18 for the medical use of marijuana or assisting with the  
19 medical use of marijuana and issued the person a registry  
20 identification card as provided under subsection (b) (3). A  
21 person who is employed by or is an agent, principal  
22 officer, or board member of a medical marijuana  
23 organization in violation of this Section is guilty of a  
24 civil violation punishable by a fine of up to \$1,000. A  
25 subsequent violation of this Section is a Class B  
26 misdemeanor.

1 Section 90. The Cannabis Control Act is amended by changing  
2 Section 8 as follows:

3 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

4 Sec. 8. It is unlawful for any person knowingly to produce  
5 the cannabis sativa plant or to possess such plants or to  
6 deliver such plants unless production or possession has been  
7 authorized pursuant to the provisions of the Alternative  
8 Treatment for Serious Diseases Causing Chronic Pain and  
9 Debilitating Conditions Act ~~Section 11 of the Act.~~

10 (1) Any person who violates this Section with respect to  
11 production or possession of:

12 (a) Not more than 5 plants is guilty of a Class A  
13 misdemeanor, except that a violation under paragraph (2) of  
14 this Section is a Class 4 felony.

15 (b) More than 5, but not more than 20 plants, is guilty of  
16 a Class 4 felony, except that a violation under paragraph (2)  
17 of this Section is a Class 3 felony.

18 (c) More than 20, but not more than 50 plants, is guilty of  
19 a Class 3 felony, except that a violation under paragraph (2)  
20 of this Section is a Class 2 felony.

21 (d) More than 50, but not more than 200 plants, is guilty  
22 of a Class 2 felony, except that a violation under paragraph  
23 (2) of this Section is a Class 1 felony, for which a fine not to  
24 exceed \$100,000 may be imposed and for which liability for the

1 cost of conducting the investigation and eradicating such  
2 plants may be assessed. Compensation for expenses incurred in  
3 the enforcement of this provision shall be transmitted to and  
4 deposited in the treasurer's office at the level of government  
5 represented by the Illinois law enforcement agency whose  
6 officers or employees conducted the investigation or caused the  
7 arrest or arrests leading to the prosecution, to be  
8 subsequently made available to that law enforcement agency as  
9 expendable receipts for use in the enforcement of laws  
10 regulating controlled substances and cannabis. If such seizure  
11 was made by a combination of law enforcement personnel  
12 representing different levels of government, the court levying  
13 the assessment shall determine the allocation of such  
14 assessment. The proceeds of assessment awarded to the State  
15 treasury shall be deposited in a special fund known as the Drug  
16 Traffic Prevention Fund.

17 (e) More than 200 plants is guilty of a Class 1 felony,  
18 except that a violation under paragraph (2) of this Section is  
19 a Class X felony, for which a fine not to exceed \$100,000 may  
20 be imposed and for which liability for the cost of conducting  
21 the investigation and eradicating such plants may be assessed.  
22 Compensation for expenses incurred in the enforcement of this  
23 provision shall be transmitted to and deposited in the  
24 treasurer's office at the level of government represented by  
25 the Illinois law enforcement agency whose officers or employees  
26 conducted the investigation or caused the arrest or arrests



1 leading to the prosecution, to be subsequently made available  
2 to that law enforcement agency as expendable receipts for use  
3 in the enforcement of laws regulating controlled substances and  
4 cannabis. If such seizure was made by a combination of law  
5 enforcement personnel representing different levels of  
6 government, the court levying the assessment shall determine  
7 the allocation of such assessment. The proceeds of assessment  
8 awarded to the State treasury shall be deposited in a special  
9 fund known as the Drug Traffic Prevention Fund.

10 (2) Any person authorized pursuant to the provisions of the  
11 Alternative Treatment for Serious Diseases Causing Chronic  
12 Pain and Debilitating Conditions Act to produce or possess the  
13 cannabis sativa plant, who knowingly produces the cannabis  
14 sativa plant or possesses such plants or delivers such plants  
15 except as provided for in the Alternative Treatment for Serious  
16 Diseases Causing Chronic Pain and Debilitating Conditions Act,  
17 is guilty of violating this Section. Any violation of this  
18 paragraph (2) shall be punished according to the number of  
19 plants involved in the violation as provided in paragraph (1)  
20 of this Section.

21 (Source: P.A. 95-247, eff. 1-1-08.)

22 (720 ILCS 550/11 rep.)

23 Section 95. The Cannabis Control Act is amended by  
24 repealing Section 11.

1           Section 97. Severability. The provisions of this Act are  
2           severable under Section 1.31 of the Statute on Statutes.

3           Section 99. Effective date. This Act takes effect upon  
4           becoming law.