



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1381

Introduced 2/11/2009, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

720 ILCS 550/8

from Ch. 56 1/2, par. 708

720 ILCS 550/11 rep.

720 ILCS 550/15 rep.

Creates the Compassionate Use of Medical Cannabis Pilot Program 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 7 dried cannabis plants and 2 ounces of dried usable cannabis. Amends the Cannabis Control Act to make conforming changes. Provides that the provisions of the Act are severable. Provides that the Act is repealed 3 years after its effective date. Repeals the research provisions of the Cannabis Control Act. Effective immediately.

LRB096 09012 RLC 19151 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 Compassionate Use of Medical Cannabis Pilot Program Act.

7 Section 5. Findings.

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

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

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

1 effect of protecting from arrest the vast majority of seriously
2 ill people who have a medical need to use cannabis.

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

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

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

21 (g) The people of the State of Illinois declare that they
22 enact this Act pursuant to the police power to protect the
23 health of its citizens that is reserved to the State of
24 Illinois and its people under the 10th Amendment to the United
25 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) "Adequate supply" means an amount of cannabis possessed
4 by a qualified patient or collectively possessed by a qualified
5 patient and the qualified patient's primary caregiver that is
6 determined by rule of the Department to be no more than
7 reasonably necessary to ensure the uninterrupted availability
8 of cannabis for a period of 60 days and that is derived solely
9 from an intrastate source. Until the Department determines what
10 constitutes a 60-day supply of medicine, patients shall be
11 presumed to be in compliance with this Act if they possess no
12 more than 7 plants and 2 ounces of dried usable cannabis.

13 (a-1) "Cardholder" means a qualifying patient or a primary
14 caregiver who has been issued and possesses a valid registry
15 identification card.

16 (b) "Debilitating medical condition" means one or more of
17 the following:

18 (1) cancer, glaucoma, positive status for human
19 immunodeficiency virus, acquired immune deficiency
20 syndrome, hepatitis C, amyotrophic lateral sclerosis,
21 Crohn's disease, agitation of Alzheimer's disease, nail
22 patella, or the treatment of these conditions;

23 (2) a chronic or debilitating disease or medical
24 condition or its treatment that produces one or more of the
25 following: cachexia or wasting syndrome; severe pain;
26 severe nausea; seizures, including but not limited to those

1 characteristic of epilepsy; or severe and persistent
2 muscle spasms, including but not limited to those
3 characteristic of multiple sclerosis; or

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

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

9 (d) "Enclosed, locked facility" means a closet, room,
10 greenhouse, or other enclosed area equipped with locks or other
11 security devices that permit access only by a registered
12 primary caregiver or registered qualifying patient.

13 (e) "Felony drug offense" means a violation of a state or
14 federal controlled substance law that was classified as a
15 felony in the jurisdiction where the person was convicted. It
16 does not include: (1) an offense for which the sentence,
17 including any term of probation, incarceration, or supervised
18 release, was completed 10 or more years earlier; or (2) an
19 offense that involved conduct that would have been permitted
20 under this Act.

21 (f) "Cannabis" has the meaning given to the term cannabis
22 in Section 3 of the Cannabis Control Act.

23 (g) "Medical use" means the acquisition, possession,
24 cultivation, manufacture, use, delivery, transfer, or
25 transportation of cannabis or paraphernalia relating to the
26 administration of cannabis to treat or alleviate a registered

1 qualifying patient's debilitating medical condition or
2 symptoms associated with the patient's debilitating medical
3 condition.

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

7 (i) "Primary caregiver" means a person who is at least 21
8 years old, who has agreed to assist with a patient's medical
9 use of cannabis, and who has never been convicted of a felony
10 drug offense. A primary caregiver, other than a medical
11 cannabis organization as defined in this Act may assist no more
12 than one qualifying patient with their medical use of cannabis.
13 A patient may designate only one primary caregiver, except that
14 a patient may designate a medical cannabis organization and one
15 individual primary caregiver.

16 (j) "Qualifying patient" means a person who has been
17 diagnosed by a practitioner as having a debilitating medical
18 condition.

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

22 (l) "Usable cannabis" means the dried leaves and flowers of
23 the cannabis plant, and any mixture or preparation thereof, but
24 does not include the seeds, stalks, and roots of the plant and
25 does not include the weight of other ingredients in cannabis
26 prepared for consumption as food.

1 (m) "Visiting qualifying patient" means a patient who is
2 not a resident of Illinois or who has been a resident of
3 Illinois less than 30 days.

4 (n) "Written certification" means a document signed by a
5 practitioner, stating that in the practitioner's professional
6 opinion the patient is likely to receive therapeutic or
7 palliative benefit from the medical use of cannabis to treat or
8 alleviate the patient's debilitating medical condition or
9 symptoms associated with the debilitating medical condition. A
10 written certification shall be made only in the course of a
11 bona fide practitioner-patient relationship after the
12 practitioner has completed a full assessment of the qualifying
13 patient's medical history. The written certification shall
14 specify the qualifying patient's debilitating medical
15 condition.

16 Section 15. Protections for the medical use of cannabis.

17 (a) A qualifying patient who has been issued and possesses
18 a registry identification card shall not be subject to arrest,
19 prosecution, or penalty in any manner, or denied any right or
20 privilege, including but not limited to civil penalty or
21 disciplinary action by a business or occupational or
22 professional licensing board or bureau, for the medical use of
23 cannabis in accordance with this Act, provided that the
24 qualifying patient possesses an amount of cannabis that does
25 not exceed an "adequate supply" as defined in subsection (a) of

1 Section 10 of this Act of usable cannabis. Such plants shall be
2 kept in an enclosed, locked facility, unless they are being
3 transported because the qualifying patient is moving or if they
4 are being transported to the qualifying patient's property. Any
5 incidental amount of seeds, stalks, and unusable roots shall
6 also be allowed under state law and shall not be included in
7 this amount.

8 (b) A primary caregiver who has been issued and possesses a
9 registry identification card shall not be subject to arrest,
10 prosecution, or penalty in any manner, or denied any right or
11 privilege, including but not limited to civil penalty or
12 disciplinary action by a business or occupational or
13 professional licensing board or bureau, solely for assisting a
14 qualifying patient to whom he or she is connected through the
15 Department's registration process with the medical use of
16 cannabis in accordance with this Act, provided that the primary
17 caregiver possesses an amount of cannabis that does not exceed
18 an "adequate supply" as defined in subsection (a) of Section 10
19 of this Act for the qualifying patient to whom he or she is
20 connected through the Department's registration process. It is
21 the intent of this provision that the total amount possessed
22 between the qualifying patient and caregiver shall not exceed
23 the patient's "adequate supply" as defined in subsection (a) of
24 Section 10 of this Act. Such plants shall be kept in an
25 enclosed, locked facility, unless they are being transported
26 because the primary caregiver is moving or if they are being

1 transported to a primary caregiver's or a qualifying patient's
2 property. Any incidental amount of seeds, stalks, and unusable
3 roots shall also be allowed under state law and shall not be
4 included in this amount.

5 (c) (1) There shall be a presumption that a qualifying
6 patient or primary caregiver is engaged in the medical use of
7 cannabis in accordance with this Act if the qualifying patient
8 or primary caregiver:

9 (A) is in possession of a registry identification
10 card; and

11 (B) is in possession of an amount of cannabis that
12 does not exceed the amount allowed under this Act.

13 (2) The presumption may be rebutted by evidence that
14 conduct related to cannabis was not for the purpose of
15 treating or alleviating the qualifying patient's
16 debilitating medical condition or symptoms associated with
17 the debilitating medical condition, in accordance with
18 this Act.

19 (d) A cardholder shall not be subject to arrest,
20 prosecution, or penalty in any manner, or denied any right or
21 privilege, including but not limited to civil penalty or
22 disciplinary action by a business or occupational or
23 professional licensing board or bureau, solely for giving
24 cannabis to a registered qualifying patient or a registered
25 primary caregiver for the registered qualifying patient's
26 medical use where nothing of value is transferred in return, or

1 to offer to do the same.

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

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

13 (g) A registered primary caregiver may receive
14 compensation for costs associated with assisting a registered
15 qualifying patient's medical use of cannabis, provided that
16 registered primary caregiver is connected to the registered
17 qualifying patient through the Department's registration
18 process. Any such compensation shall not constitute the sale of
19 controlled substances.

20 (h) A practitioner shall not be subject to arrest,
21 prosecution, or penalty in any manner, or denied any right or
22 privilege, including but not limited to civil penalty or
23 disciplinary action by the Medical Disciplinary Board or by any
24 other business or occupational or professional licensing board
25 or bureau, solely for providing written certifications or for
26 otherwise stating that, in the practitioner's professional

1 opinion, a patient is likely to receive therapeutic benefit
2 from the medical use of cannabis to treat or alleviate the
3 patient's serious or debilitating medical condition or
4 symptoms associated with the serious or debilitating medical
5 condition, provided that nothing shall prevent a professional
6 licensing board from sanctioning a practitioner for failing to
7 properly evaluate a patient's medical condition or otherwise
8 violating the standard of care for evaluating medical
9 conditions.

10 (i) A person shall not be subject to arrest, prosecution,
11 or penalty in any manner, or denied any right or privilege,
12 including but not limited to civil penalty or disciplinary
13 action by a business or occupational or professional licensing
14 board or bureau, solely for providing a registered qualifying
15 patient or a registered primary caregiver with cannabis
16 paraphernalia for purposes of a qualifying patient's medical
17 use of cannabis.

18 (j) Any cannabis, cannabis paraphernalia, licit property,
19 or interest in licit property that is possessed, owned, or used
20 in connection with the medical use of cannabis, as allowed
21 under this Act, or acts incidental to such use, shall not be
22 seized or forfeited.

23 (k) A person shall not be subject to arrest, prosecution,
24 or penalty in any manner, or denied any right or privilege,
25 including but not limited to civil penalty or disciplinary
26 action by a business or occupational or professional licensing

1 board or bureau, simply for being in the presence or vicinity
2 of the medical use of cannabis as allowed under this Act, or
3 for assisting a registered qualifying patient with using or
4 administering cannabis. This provision, however, shall not be
5 construed to allow the consumption of cannabis by persons other
6 than qualifying patients.

7 (l) A registry identification card, or its equivalent, that
8 is issued under the laws of another state, district, territory,
9 commonwealth, or insular possession of the United States that
10 allows the medical use of cannabis by a visiting qualifying
11 patient, shall have the same force and effect as a registry
12 identification card issued by the Department.

13 (m) Any cardholder who sells cannabis to a person who is
14 not allowed to use cannabis for medical purposes under this Act
15 shall have his or her registry identification card revoked, and
16 is liable for any other penalties for the sale of cannabis. The
17 Department may revoke the registry identification card of any
18 cardholder who violates this Act, and the cardholder shall be
19 liable for any other penalties for the violation.

20 Section 20. Department to issue rules.

21 (a) Not later than 120 days after the effective date of
22 this Act, the Department shall promulgate rules governing the
23 manner in which it shall consider petitions from the public to
24 add debilitating medical conditions to the list of debilitating
25 medical conditions set forth in subsection (b) of Section 10 of

1 this Act. In considering such petitions, the Department shall
2 include public notice of, and an opportunity to comment in a
3 public hearing upon, such petitions. The Department shall,
4 after hearing, approve or deny such petitions within 180 days
5 of submission of the petition. The approval or denial of such a
6 petition shall be considered a final Department action, subject
7 to judicial review. Jurisdiction and venue for judicial review
8 are vested in the Circuit Court.

9 (b) 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 applications for and renewals
12 of registry identification cards for qualifying patients and
13 primary caregivers. The Department's rules shall establish
14 application and renewal fees that generate revenues sufficient
15 to offset all expenses of implementing and administering this
16 Act. The fee shall include an additional \$2 per registry
17 identification card which shall be allocated to drug treatment
18 and prevention. The Department may establish a sliding scale of
19 application and renewal fees based upon a qualifying patient's
20 family income. The Department may accept donations from private
21 sources in order to reduce the application and renewal fees.

22 Section 25. Administering the Department's rules.

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

- 1 (1) written certification;
- 2 (2) application or renewal fee;
- 3 (3) name, address, and date of birth of the qualifying
4 patient, except that if the applicant is homeless, no
5 address is required;
- 6 (4) name, address, and telephone number of the
7 qualifying patient's practitioner; and
- 8 (5) name, address, and date of birth of each primary
9 caregiver, if any, of the qualifying patient.

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

13 (1) The qualifying patient's practitioner has
14 explained the potential risks and benefits of the medical
15 use of cannabis to the qualifying patient and to a parent,
16 guardian, or person having legal custody of the qualifying
17 patient; and

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

20 (A) allow the qualifying patient's medical use of
21 cannabis;

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

24 (C) control the acquisition of the cannabis, the
25 dosage, and the frequency of the medical use of
26 cannabis by the qualifying patient.

1 (c) The Department shall verify the information contained
2 in an application or renewal submitted pursuant to this
3 Section, and shall approve or deny an application or renewal
4 within 15 days of receiving it. The Department may deny an
5 application or renewal only if the applicant did not provide
6 the information required pursuant to this Section, or if the
7 Department determines that the information provided was
8 falsified. Rejection of an application or renewal is considered
9 a final Department action, subject to judicial review.
10 Jurisdiction and venue for judicial review are vested in the
11 Illinois Circuit Court.

12 (d) The Department shall issue a registry identification
13 card to each primary caregiver, if any, who is named in a
14 qualifying patient's approved application, up to a maximum of 2
15 primary caregivers per qualifying patient.

16 (e) The Department shall issue registry identification
17 cards within 5 days of approving an application or renewal,
18 which shall expire one year after the date of issuance.
19 Registry identification cards shall contain all of the
20 following:

21 (1) Name, address, and date of birth of the qualifying
22 patient;

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

25 (3) The date of issuance and expiration date of the
26 registry identification card;

1 (4) A random identification number that is unique to
2 the cardholder; and

3 (5) A photograph, if the Department decides to require
4 one.

5 (f) (1) A registered qualifying patient shall notify the
6 Department of any change in the registered qualifying patient's
7 name, address, or primary caregiver, or if the registered
8 qualifying patient ceases to have his or her debilitating
9 medical condition, within 10 days of such change.

10 (2) A registered qualifying patient who fails to notify
11 the Department of any of these changes is responsible for a
12 civil infraction, punishable by a fine of no more than
13 \$150. If the registered qualifying patient's certifying
14 practitioner notifies the Department in writing that the
15 registered qualifying patient has ceased to suffer from a
16 debilitating medical condition, the card shall become null
17 and void upon notification by the Department to the
18 qualifying patient.

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

25 (4) When a registered qualifying patient or registered
26 primary caregiver notifies the Department of any changes

1 listed in this subsection, the Department shall issue the
2 registered qualifying patient and each registered primary
3 caregiver a new registry identification card within 10 days
4 of receiving the updated information and a \$10 fee.

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

10 (6) If a registered qualifying patient or registered
11 primary caregiver loses his or her registry identification
12 card, he or she shall notify the Department and submit a
13 \$10 fee within 10 days of losing the card. Within 5 days
14 after such notification, the Department shall issue a new
15 registry identification card with a new random
16 identification number.

17 (g) Possession of, or application for, a registry
18 identification card shall not constitute probable cause or
19 reasonable suspicion, nor shall it be used to support the
20 search of the person or property of the person possessing or
21 applying for the registry identification card.

22 (h) The following confidentiality rules shall apply:

23 (1) Applications and supporting information submitted
24 by qualifying patients, including information regarding
25 their primary caregivers and practitioners, are
26 confidential.

1 (2) The Department shall maintain a confidential list
2 of the persons to whom the Department has issued registry
3 identification cards. Individual names and other
4 identifying information on the list shall be confidential,
5 exempt from the Freedom of Information Act, and not subject
6 to disclosure, except to authorized employees of the
7 Department as necessary to perform official duties of the
8 Department.

9 (3) The Department shall verify to law enforcement
10 personnel whether a registry identification card is valid,
11 without disclosing more information than is reasonably
12 necessary to verify the authenticity of the registry
13 identification card.

14 (4) It is a Class B misdemeanor for any person,
15 including an employee or official of the Department or
16 another state agency or local government, to breach the
17 confidentiality of information obtained pursuant to this
18 Act. Notwithstanding this provision, Department employees
19 may notify law enforcement about falsified or fraudulent
20 information submitted to the Department, so long as the
21 employee who suspects that falsified or fraudulent
22 information has been submitted confers with his or her
23 supervisor (or at least one other employee of the
24 Department) and both agree that circumstances exist that
25 warrant reporting.

26 (i) The Department shall submit to the General Assembly an

1 annual report that does not disclose any identifying
2 information about qualifying patients, primary caregivers, or
3 practitioners, but does contain, at a minimum, all of the
4 following information:

5 (1) The number of applications and renewals filed for
6 registry identification cards.

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

9 (3) The nature of the debilitating medical conditions
10 of the qualifying patients.

11 (4) The number of registry identification cards
12 revoked.

13 (5) The number of practitioners providing written
14 certifications for qualifying patients.

15 (j) Where a state-funded or locally funded law enforcement
16 agency encounters an individual who, during the course of the
17 investigation, credibly asserts that he or she is a registered
18 qualifying patient or registered primary caregiver, the law
19 enforcement agency shall not provide any information from any
20 cannabis-related investigation of the person to any law
21 enforcement authority that does not recognize the protection of
22 this Act and any prosecution of the individual for a violation
23 of this Act shall be conducted pursuant to the laws of this
24 State.

25 Section 30. Scope of Act.

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

3 (1) Undertake any task under the influence of cannabis,
4 when doing so would constitute negligence or professional
5 malpractice.

6 (2) Possess cannabis, or otherwise engage in the
7 medical use of cannabis:

8 (A) in a school bus;

9 (B) on the grounds of any preschool or primary or
10 secondary school; or

11 (C) in any correctional facility.

12 (3) Smoke cannabis:

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

14 (B) in any public place.

15 (4) Operate, navigate, or be in actual physical control
16 of any motor vehicle, aircraft, or motorboat while under
17 the influence of cannabis. However, a registered
18 qualifying patient shall not be considered to be under the
19 influence of cannabis solely because of the presence of
20 metabolites or components of cannabis that appear in
21 insufficient concentration to cause impairment.

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

23 (1) A government medical assistance program or private
24 health insurer to reimburse a person for costs associated
25 with the medical use of cannabis; or

26 (2) An employer to accommodate the ingestion of

1 cannabis in any workplace or any employee working while
2 under the influence of cannabis, provided that a qualifying
3 patient shall not be considered to be under the influence
4 of cannabis solely because of the presence of metabolites
5 or components of cannabis that appear in insufficient
6 concentration to cause impairment.

7 (c) Fraudulent representation to a law enforcement
8 official of any fact or circumstance relating to the medical
9 use of cannabis to avoid arrest or prosecution is a petty
10 offense punishable by a fine of \$500, which shall be in
11 addition to any other penalties that may apply for making a
12 false statement or for the use of cannabis other than use
13 undertaken pursuant to this Act.

14 Section 35. Affirmative defense and dismissal for medical
15 cannabis.

16 (a) Except as provided in Section 30, a patient and a
17 patient's primary caregiver, if any, may assert the medical
18 purpose for using cannabis as a defense to any prosecution
19 involving cannabis, and this defense shall be presumed valid
20 where the evidence shows that:

21 (1) A practitioner has stated that, in the
22 practitioner's professional opinion, after having
23 completed a full assessment of the patient's medical
24 history and current medical condition made in the course of
25 a bona fide practitioner-patient relationship, the patient

1 is likely to receive therapeutic or palliative benefit from
2 the medical use of cannabis to treat or alleviate the
3 patient's serious or debilitating medical condition or
4 symptoms associated with the patient's serious or
5 debilitating medical condition; and

6 (2) The patient and the patient's primary caregiver, if
7 any, were collectively in possession of a quantity of
8 cannabis that was not more than was reasonably necessary to
9 ensure the uninterrupted availability of cannabis for the
10 purpose of treating or alleviating the patient's serious or
11 debilitating medical condition or symptoms associated with
12 the patient's serious or debilitating medical condition;
13 and

14 (3) The patient and the patient's primary caregiver, if
15 any, were engaged in the acquisition, possession,
16 cultivation, manufacture, use, delivery, transfer, or
17 transportation of cannabis or paraphernalia relating to
18 the administration of cannabis to treat or alleviate the
19 patient's serious or debilitating medical condition or
20 symptoms associated with the patient's serious or
21 debilitating medical condition.

22 (b) A person may assert the medical purpose for using
23 cannabis in a motion to dismiss, and the charges shall be
24 dismissed following an evidentiary hearing where the person
25 shows the elements listed in subsection (a).

26 (c) If a patient or a patient's primary caregiver

1 demonstrates the patient's medical purpose for using cannabis
2 pursuant to this Section, the patient and the patient's primary
3 caregiver shall not be subject to the following for the
4 patient's use of cannabis for medical purposes:

5 (1) disciplinary action by a business or occupational
6 or professional licensing board or bureau; or

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

8 Section 40. Enforcement of this Act.

9 (a) If the Department fails to adopt rules to implement
10 this Act within 120 days of the effective date of this Act, a
11 qualifying patient may commence an action in the Circuit Court
12 to compel the Department to perform the actions mandated
13 pursuant to the provisions of this Act.

14 (b) If the Department fails to issue a valid registry
15 identification card in response to a valid application or
16 renewal submitted pursuant to this Act within 20 days of its
17 submission, the registry identification card shall be deemed
18 granted, and a copy of the registry identification application
19 or renewal shall be deemed a valid registry identification
20 card.

21 (c) If at any time after the 140 days following the
22 effective date of this Act the Department is not accepting
23 applications, including if it has not created rules allowing
24 qualifying patients to submit applications, a notarized
25 statement by a qualifying patient containing the information

1 required in an application, pursuant to clauses (a)(2) through
2 (a)(5) of Section 25 together with a written certification
3 shall be deemed a valid registry identification card.
4

5 Section 45. Medical cannabis organization.

6 (a) Definition. For purposes of this Section, "medical
7 cannabis organization" means an entity registered under this
8 Section that acquires, possesses, cultivates, manufactures,
9 delivers, transfers, transports, supplies, or dispenses
10 cannabis, or related supplies and educational materials, to
11 registered qualifying patients and their registered primary
12 caregivers. A medical cannabis organization is a primary
13 caregiver. All provisions of this Act pertaining to a primary
14 caregiver shall apply to a medical cannabis organization unless
15 they conflict with a provision contained in this Section. A
16 medical cannabis organization shall supply cannabis to any
17 number of registered qualifying patients who have designated it
18 as one of their primary caregivers.

19 (b) Registration requirements.

20 (1) The Department shall register a medical cannabis
21 organization and issue a registration certificate within
22 20 days to any person or entity that provides:

23 (A) A fee paid to the Department in the amount of
24 \$5,000;

25 (B) The legal name of the medical cannabis

1 organization;

2 (C) The physical address of the medical cannabis
3 organization and the physical address of one
4 additional location, if any, where cannabis will be
5 cultivated;

6 (D) The name, address, and date of birth of each
7 principal officer and board member of the medical
8 cannabis organization;

9 (E) The name, address, and date of birth of any
10 person who is an agent of or employed by the medical
11 cannabis organization.

12 (2) The Department shall track the number of registered
13 qualifying patients who designate each medical cannabis
14 organization as a primary caregiver, and issue a written
15 statement to the medical cannabis organization of the
16 number of qualifying patients who have designated the
17 medical cannabis organization to serve as a primary
18 caregiver for them. This statement shall be updated each
19 time a new registered qualifying patient designates the
20 medical cannabis organization or ceases to designate the
21 medical cannabis organization and may be transmitted
22 electronically if the Department's rules so provide. The
23 Department may provide by rule that the updated written
24 statements will not be issued more frequently than twice
25 each week.

26 (3) The Department shall issue each principal officer,

1 board member, agent, and employee of a medical cannabis
2 organization a registry identification card within 10 days
3 of receipt of the person's name, address, date of birth,
4 and a fee in an amount established by the Department. Each
5 card shall specify that the cardholder is a principal
6 officer, board member, agent, or employee of a medical
7 cannabis organization and shall contain the following:

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

10 (B) The legal name of the medical cannabis
11 organization to which the principal officer, board
12 member, agent, or employee is affiliated;

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

15 (D) The date of issuance and expiration date of the
16 registry identification card; and

17 (E) A photograph, if the Department decides to
18 require one.

19 (4) The Department shall not issue a registry
20 identification card to any principal officer, board
21 member, agent, or employee of a medical cannabis
22 organization who has been convicted of a felony drug
23 offense. The Department may conduct a background check of
24 each principal officer, board member, agent, or employee in
25 order to carry out this provision. The Department shall
26 notify the medical cannabis organization in writing of the

1 purpose for denying the registry identification card.
2 However, the Department shall grant such person a registry
3 identification card if the Department determines that the
4 person's conviction was for the medical use of cannabis or
5 assisting with the medical use of cannabis.

6 (c) Authority of the Department. Not later than 120 days
7 after the effective date of this Act, the Department shall
8 promulgate rules governing the manner in which it shall
9 consider applications for and renewals of registration
10 certificates for medical cannabis organizations, including
11 rules governing:

12 (1) The form and content of registration and renewal
13 applications;

14 (2) Minimum oversight requirements for medical
15 cannabis organizations;

16 (3) Minimum record-keeping requirements for medical
17 cannabis organizations;

18 (4) Minimum security requirements for medical cannabis
19 organizations; and

20 (5) Procedures for suspending or terminating the
21 registration of medical cannabis organizations that
22 violate the provisions of this Section or the rules
23 promulgated pursuant to this subsection.

24 (d) Expiration. A medical cannabis organization
25 registration certificate and the registry identification card
26 for each principal officer, board member, agent, or employee

1 shall expire one year after the date of issuance. The
2 Department shall issue a renewal medical cannabis organization
3 registration certificate and renewal registry identification
4 cards within 10 days to any person who complies with the
5 requirements contained in subsection (b) of this Section.

6 (e) Inspection. Medical cannabis organizations are subject
7 to reasonable inspection by the Department.

8 (f) Medical cannabis organization requirements.

9 (1) A medical cannabis organization may not be located
10 within 500 feet of the property line of a preexisting
11 public or private school.

12 (2) A medical cannabis organization shall notify the
13 Department within 10 days of when a principal officer,
14 board member, agent, or employee ceases to work at the
15 medical cannabis organization.

16 (3) A medical cannabis organization shall notify the
17 Department in writing of the name, address, and date of
18 birth of any new principal officer, board member, agent, or
19 employee and shall submit a fee in an amount established by
20 the Department for a new registry identification card
21 before a new agent or employee begins working at the
22 medical cannabis organization.

23 (4) A medical cannabis organization shall implement
24 appropriate security measures to deter and prevent
25 unauthorized entrance into areas containing cannabis and
26 the theft of cannabis.

1 (5) The operating documents of a medical cannabis
2 organization shall include procedures for the oversight of
3 the medical cannabis organization and procedures to ensure
4 accurate record keeping.

5 (6) A medical cannabis organization is prohibited from
6 acquiring, possessing, cultivating, manufacturing,
7 delivering, transferring, transporting, supplying, or
8 dispensing cannabis for any purpose except to assist
9 registered qualifying patients with the medical use of
10 cannabis directly or through the qualifying patients'
11 other primary caregiver.

12 (7) All principal officers and board members of a
13 medical cannabis organization must be residents of the
14 State of Illinois.

15 (g) Immunity.

16 (1) No registered medical cannabis organization shall
17 be subject to prosecution, search, seizure, or penalty in
18 any manner or denied any right or privilege, including but
19 not limited to, civil penalty or disciplinary action by a
20 business, occupational, or professional licensing board or
21 entity, solely for acting in accordance with this Section
22 to assist registered qualifying patients to whom it is
23 connected through the Department's registration process
24 with the medical use of cannabis.

25 (2) No principal officers, board members, agents, or
26 employees of a registered medical cannabis organization

1 shall be subject to arrest, prosecution, search, seizure,
2 or penalty in any manner or denied any right or privilege,
3 including but not limited to civil penalty or disciplinary
4 action by a business, occupational, or professional
5 licensing board or entity, solely for working for or with a
6 medical cannabis organization in accordance with this Act.

7 (h) Prohibitions.

8 (1) A medical cannabis organization may not possess an
9 amount of cannabis that exceeds the total of the allowable
10 amounts of cannabis for the registered qualifying patients
11 for whom the medical cannabis organization is a registered
12 primary caregiver.

13 (2) A medical cannabis organization may not dispense,
14 deliver, or otherwise transfer cannabis to a person other
15 than a qualifying patient who has designated the medical
16 cannabis organization as a primary caregiver or to such
17 patient's primary caregiver.

18 (3) A medical cannabis organization may not obtain
19 cannabis from outside the State of Illinois.

20 (4) A person convicted of violating paragraph (2) of
21 this subsection may not be an employee, agent, principal
22 officer, or board member of any medical cannabis
23 organization, and such person's registry identification
24 card shall be immediately revoked.

25 (5) No person who has been convicted of a felony drug
26 offense may be the principal officer, board member, agent,

1 or employee of a medical cannabis organization unless the
2 Department has determined that the person's conviction was
3 for the medical use of cannabis or assisting with the
4 medical use of cannabis and issued the person a registry
5 identification card as provided under subsection (b) (3). A
6 person who is employed by or is an agent, principal
7 officer, or board member of a medical cannabis organization
8 in violation of this Section is guilty of a civil violation
9 punishable by a fine of up to \$1,000. A subsequent
10 violation of this Section is a Class B misdemeanor.

11 Section 50. Repeal of Act. This Act is repealed 3 years
12 after its effective date.

13 Section 55. Adoption of rules by the Department; 60-day
14 supply for qualifying patients.

15 (a) By July 1, 2010, the Department shall adopt rules
16 defining the quantity of cannabis that could reasonably be
17 presumed to be a 60-day supply for qualifying patients.

18 (b) During the rule-making process, the Department shall
19 make a good faith effort to include all stakeholders identified
20 in the rule-making analysis as being impacted by the rule.

21 (c) Stakeholders shall include, but are not limited to: at
22 least 3 physicians, one of which must have prior experience
23 treating medical cannabis patients and another who specializes
24 in oncology; 2 nurses, one of which must have prior experience

1 treating HIV/AIDS patients; a representative from hospice; a
2 representative from the law enforcement community; a
3 prosecuting attorney currently employed by the State of
4 Illinois; a public defender currently employed by the State of
5 Illinois; a defense attorney in private practice; a licensed
6 phlebotomist, and a horticulturist.

7 (d) The Department shall gather information from medical
8 and scientific literature, consulting with experts and the
9 public, and reviewing the best practices of other states
10 regarding access to an adequate, safe, consistent, and secure
11 source, including alternative distribution systems, of medical
12 marijuana for qualifying patients. The Department shall report
13 its findings to the General Assembly by July 10, 2009.

14 Section 95. The Cannabis Control Act is amended by changing
15 Section 8 as follows:

16 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

17 Sec. 8. (1) It is unlawful for any person knowingly to
18 produce the cannabis sativa plant or to possess such plants or
19 to deliver such plants unless production or possession has been
20 authorized pursuant to the provisions of the Compassionate Use
21 of Medical Cannabis Pilot Program Act ~~Section 11 of the Act.~~
22 Any person who violates this Section with respect to production
23 or possession of:

24 (a) Not more than 5 plants is guilty of a Class A

1 misdemeanor, except that a violation under subsection (2) of
2 this Section is a Class 4 felony.

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

6 (c) More than 20, but not more than 50 plants, is guilty of
7 a Class 3 felony, except that a violation under subsection (2)
8 of this Section is a Class 2 felony.

9 (d) More than 50, but not more than 200 plants, is guilty
10 of a Class 2 felony, except that a violation under subsection
11 (2) of this Section is a Class 1 felony, for which a fine not to
12 exceed \$100,000 may be imposed and for which liability for the
13 cost of conducting the investigation and eradicating such
14 plants may be assessed. Compensation for expenses incurred in
15 the enforcement of this provision shall be transmitted to and
16 deposited in the treasurer's office at the level of government
17 represented by the Illinois law enforcement agency whose
18 officers or employees conducted the investigation or caused the
19 arrest or arrests leading to the prosecution, to be
20 subsequently made available to that law enforcement agency as
21 expendable receipts for use in the enforcement of laws
22 regulating controlled substances and cannabis. If such seizure
23 was made by a combination of law enforcement personnel
24 representing different levels of government, the court levying
25 the assessment shall determine the allocation of such
26 assessment. The proceeds of assessment awarded to the State

1 treasury shall be deposited in a special fund known as the Drug
2 Traffic Prevention Fund.

3 (e) More than 200 plants is guilty of a Class 1 felony,
4 except that a violation under subsection (2) of this Section is
5 a Class X felony, for which a fine not to exceed \$100,000 may
6 be imposed and for which liability for the cost of conducting
7 the investigation and eradicating such plants may be assessed.
8 Compensation for expenses incurred in the enforcement of this
9 provision shall be transmitted to and deposited in the
10 treasurer's office at the level of government represented by
11 the Illinois law enforcement agency whose officers or employees
12 conducted the investigation or caused the arrest or arrests
13 leading to the prosecution, to be subsequently made available
14 to that law enforcement agency as expendable receipts for use
15 in the enforcement of laws regulating controlled substances and
16 cannabis. If such seizure was made by a combination of law
17 enforcement personnel representing different levels of
18 government, the court levying the assessment shall determine
19 the allocation of such assessment. The proceeds of assessment
20 awarded to the State treasury shall be deposited in a special
21 fund known as the Drug Traffic Prevention Fund.

22 (2) Any person authorized pursuant to the provisions of the
23 Compassionate Use of Medical Cannabis Pilot Program Act to
24 produce or possess the cannabis sativa plant, who knowingly
25 produces the cannabis sativa plant or possesses such plants or
26 delivers such plants except as provided for in the

1 Compassionate Use of Medical Cannabis Pilot Program Act, is
2 guilty of violating this Section. Any violation of this
3 subsection (2) shall be punished according to the number of
4 plants involved in the violation as provided in subsection (1)
5 of this Section.

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

7 (720 ILCS 550/11 rep.)

8 (720 ILCS 550/15 rep.)

9 Section 96. The Cannabis Control Act is amended by
10 repealing Sections 11 and 15.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.