



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0030

Introduced 1/12/2011, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

See Index

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 6 cannabis plants and 2 ounces of dried usable cannabis. Amends the Cannabis Control Act to make conforming changes, including that any registered qualifying patient or registered primary caregiver who distributes cannabis to someone who is not allowed to use cannabis is subject to a penalty enhancement of not more than 2 years in prison or a fine of not more than \$2,000, or both, for abuse of the Compassionate Use of Medical Cannabis Pilot Program Act. Provides that the Act is repealed 3 years after its effective date. Repeals the research provisions of the Cannabis Control Act. Provides that the Department of Public Health shall develop and disseminate educational information about the health risks associated with the abuse of cannabis and prescription medications. Provides that the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registration certificates for medical cannabis organizations. Provides that the provisions of the Act are severable. Effective immediately.

LRB097 03078 RLC 43111 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 physicians and primary caregivers,
18 from arrest and prosecution, criminal and other penalties, and
19 property forfeiture if such patients engage in the medical use
20 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 2 ounces of dried usable cannabis and 6 cannabis
13 plants, no more than 3 of which can be mature cannabis plants.
14 As used in this subsection (a), "mature cannabis plant" means a
15 female cannabis plant that meets one or more of the following 3
16 criteria: (1) has observable flowers or buds, (2) is at least
17 12 inches in height, or (3) is at least 12 inches in diameter.

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

21 (b) "Debilitating medical condition" means one or more of
22 the following:

23 (1) cancer, glaucoma, positive status for human
24 immunodeficiency virus, acquired immune deficiency
25 syndrome, hepatitis C, amyotrophic lateral sclerosis,
26 Crohn's disease, agitation of Alzheimer's disease, nail

1 patella, or the treatment of these conditions;

2 (2) a chronic or debilitating disease or medical
3 condition or its treatment that produces one or more of the
4 following: cachexia or wasting syndrome; seizures,
5 including but not limited to those characteristic of
6 epilepsy; or severe and persistent muscle spasms,
7 including but not limited to those characteristic of
8 multiple sclerosis;

9 (3) a debilitating disease or medical condition or its
10 treatment that produces intractable pain, which is severe,
11 debilitating pain that did not respond to other reasonable
12 medical efforts for a reasonable period of time, including
13 in cases where other treatment options produced serious
14 side effects;

15 (4) a debilitating disease or medical condition or its
16 treatment that produces severe, debilitating nausea that
17 did not respond to other reasonable medical efforts for a
18 reasonable period of time, including cases where other
19 treatment options produced serious side effects; or

20 (5) 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,
26 greenhouse, or other enclosed area equipped with locks or other

1 security devices that permit access only by a registered
2 primary caregiver or registered qualifying patient.

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

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

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

20 (h) "Physician" means a person licensed under the Medical
21 Practice Act of 1987 to practice medicine in all its branches
22 who has the authority to prescribe under Article III of the
23 Illinois Controlled Substances Act.

24 (i) "Primary caregiver" means a person who is at least 21
25 years old, who has agreed to assist with a patient's medical
26 use of cannabis, and who has never been convicted of a felony

1 drug offense. A primary caregiver, other than a medical
2 cannabis organization as defined in this Act may assist no more
3 than one qualifying patient with their medical use of cannabis.
4 A patient may designate only one primary caregiver, except that
5 a patient may designate a medical cannabis organization and one
6 individual primary caregiver.

7 (j) "Qualifying patient" means a person who has been
8 diagnosed by a physician as having a debilitating medical
9 condition.

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

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

18 (m) "Visiting qualifying patient" means a patient who is
19 not a resident of Illinois or who has been a resident of
20 Illinois less than 30 days.

21 (n) "Written certification" means a document signed by a
22 physician, stating: (1) that in the physician's professional
23 opinion the patient is likely to receive therapeutic or
24 palliative benefit from the medical use of cannabis to treat or
25 alleviate the patient's debilitating medical condition or
26 symptoms associated with the debilitating medical condition;

1 (2) that the qualifying patient has a debilitating medical
2 condition and specifying what debilitating medical condition
3 the qualifying patient has; and (3) that the patient is under
4 the physician's care for the debilitating medical condition. A
5 written certification shall be made only in the course of a
6 bona fide physician-patient relationship after the physician
7 has completed a full assessment of the qualifying patient's
8 medical history.

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

10 (a) A qualifying patient who has been issued and possesses
11 a registry identification card shall not be subject to arrest,
12 prosecution, or penalty in any manner, or denied any right or
13 privilege, including but not limited to civil penalty or
14 disciplinary action by a business or occupational or
15 professional licensing board or bureau, for the medical use of
16 cannabis in accordance with this Act, provided that the
17 qualifying patient possesses an amount of cannabis that does
18 not exceed an "adequate supply" as defined in subsection (a) of
19 Section 10 of this Act of usable cannabis. Such plants shall be
20 kept in an enclosed, locked facility, unless they are being
21 transported because the qualifying patient is moving or if they
22 are being transported to the qualifying patient's property. Any
23 incidental amount of seeds, stalks, and unusable roots shall
24 also be allowed under State law and shall not be included in
25 this amount.

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

24 (c) (1) There shall be a presumption that a qualifying
25 patient or primary caregiver is engaged in the medical use of
26 cannabis in accordance with this Act if the qualifying patient

1 or primary caregiver:

2 (A) is in possession of a registry identification
3 card; and

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

6 (2) The presumption may be rebutted by evidence that
7 conduct related to cannabis was not for the purpose of
8 treating or alleviating the qualifying patient's
9 debilitating medical condition or symptoms associated with
10 the debilitating medical condition, in accordance with
11 this Act.

12 (d) A cardholder shall not be subject to arrest,
13 prosecution, or penalty in any manner, or denied any right or
14 privilege, including but not limited to civil penalty or
15 disciplinary action by a business or occupational or
16 professional licensing board or bureau, solely for giving
17 cannabis to a registered qualifying patient or a registered
18 primary caregiver for the registered qualifying patient's
19 medical use where nothing of value is transferred in return, or
20 to offer to do the same.

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

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

6 (g) A registered primary caregiver may receive
7 compensation for costs associated with assisting a registered
8 qualifying patient's medical use of cannabis, provided that
9 registered primary caregiver is connected to the registered
10 qualifying patient through the Department's registration
11 process. Any such compensation shall not constitute the sale of
12 controlled substances.

13 (h) A physician shall not be subject to arrest,
14 prosecution, or penalty in any manner, or denied any right or
15 privilege, including but not limited to civil penalty or
16 disciplinary action by the Medical Disciplinary Board or by any
17 other business or occupational or professional licensing board
18 or bureau, solely for providing written certifications or for
19 otherwise stating that, in the physician's professional
20 opinion, a patient is likely to receive therapeutic benefit
21 from the medical use of cannabis to treat or alleviate the
22 patient's serious or debilitating medical condition or
23 symptoms associated with the serious or debilitating medical
24 condition, provided that nothing shall prevent a professional
25 licensing board from sanctioning a physician for failing to
26 properly evaluate a patient's medical condition or otherwise

1 violating the standard of care for evaluating medical
2 conditions.

3 (i) A person shall not be subject to arrest, prosecution,
4 or penalty in any manner, or denied any right or privilege,
5 including but not limited to civil penalty or disciplinary
6 action by a business or occupational or professional licensing
7 board or bureau, solely for providing a registered qualifying
8 patient or a registered primary caregiver with cannabis
9 paraphernalia for purposes of a qualifying patient's medical
10 use of cannabis.

11 (j) Any cannabis, cannabis paraphernalia, licit property,
12 or interest in licit property that is possessed, owned, or used
13 in connection with the medical use of cannabis, as allowed
14 under this Act, or acts incidental to such use, shall not be
15 seized or forfeited.

16 (k) A person shall not be subject to arrest, prosecution,
17 or penalty in any manner, or denied any right or privilege,
18 including but not limited to civil penalty or disciplinary
19 action by a business or occupational or professional licensing
20 board or bureau, simply for being in the presence or vicinity
21 of the medical use of cannabis as allowed under this Act, or
22 for assisting a registered qualifying patient with using or
23 administering cannabis. This provision, however, shall not be
24 construed to allow the consumption of cannabis by persons other
25 than qualifying patients.

26 (l) A registry identification card, or its equivalent, that

1 is issued under the laws of another state, district, territory,
2 commonwealth, or insular possession of the United States that
3 allows the medical use of cannabis by a visiting qualifying
4 patient, shall have the same force and effect as a registry
5 identification card issued by the Department.

6 (m) Any cardholder who sells cannabis to a person who is
7 not allowed to use cannabis for medical purposes under this Act
8 shall have his or her registry identification card revoked, and
9 is liable for any other penalties for the sale of cannabis. The
10 Department may revoke the registry identification card of any
11 cardholder who violates this Act, and the cardholder shall be
12 liable for any other penalties for the violation.

13 (n) For purposes of Illinois State law, the consumption or
14 use of cannabis by a registered qualifying patient shall be
15 considered lawful if it is authorized by and in accordance with
16 this Act.

17 Section 20. Department to issue rules.

18 (a) Not later than 120 days after the effective date of
19 this Act, the Department shall promulgate rules governing the
20 manner in which it shall consider petitions from the public to
21 add debilitating medical conditions to the list of debilitating
22 medical conditions set forth in subsection (b) of Section 10 of
23 this Act. In considering such petitions, the Department shall
24 include public notice of, and an opportunity to comment in a
25 public hearing upon, such petitions. The Department shall,

1 after hearing, approve or deny such petitions within 180 days
2 of submission of the petition. The approval or denial of such a
3 petition shall be considered a final Department action, subject
4 to judicial review. Jurisdiction and venue for judicial review
5 are vested in the Circuit Court.

6 (b) Not later than 120 days after the effective date of
7 this Act, the Department shall promulgate rules governing the
8 manner in which it shall consider applications for and renewals
9 of registry identification cards for qualifying patients and
10 primary caregivers. The Department's rules shall establish
11 application and renewal fees that generate revenues sufficient
12 to offset all expenses of implementing and administering this
13 Act. The fee shall include an additional \$3 per registry
14 identification card which shall be used to develop and
15 disseminate educational information about the health risks
16 associated with the abuse of cannabis and prescription
17 medications. The Department may establish a sliding scale of
18 application and renewal fees based upon a qualifying patient's
19 family income. The Department may accept donations from private
20 sources in order to reduce the application and renewal fees.

21 (c) 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 applications for and renewals
24 of registration certificates for medical cannabis
25 organizations, including rules governing the form and content
26 of registration and renewal applications, and a standard form

1 for written certifications.

2 Section 25. Administering the Department's rules.

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

6 (1) written certification, which shall be on a form
7 developed by the Department;

8 (2) application or renewal fee;

9 (3) name, address, and date of birth of the qualifying
10 patient, except that if the applicant is homeless, no
11 address is required;

12 (4) name, address, and telephone number of the
13 qualifying patient's physician; and

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

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

19 (1) The qualifying patient's physician has explained
20 the potential risks and benefits of the medical use of
21 cannabis to the qualifying patient and to a parent,
22 guardian, or person having legal custody of the qualifying
23 patient; and

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

1 (A) allow the qualifying patient's medical use of
2 cannabis;

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

5 (C) control the acquisition of the cannabis, the
6 dosage, and the frequency of the medical use of
7 cannabis by the qualifying patient.

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

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

23 (e) The Department shall issue registry identification
24 cards within 5 days of approving an application or renewal,
25 which shall expire one year after the date of issuance.
26 Registry identification cards shall contain all of the

1 following:

2 (1) Name, address, and date of birth of the qualifying
3 patient;

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

6 (3) The date of issuance and expiration date of the
7 registry identification card;

8 (4) A random identification number that is unique to
9 the cardholder; and

10 (5) A photograph, if the Department decides to require
11 one.

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

18 (2) A registered qualifying patient who fails to notify
19 the Department of any of these changes is responsible for a
20 civil infraction, punishable by a fine of no more than
21 \$150. If the registered qualifying patient's certifying
22 physician notifies the Department in writing that the
23 registered qualifying patient has ceased to suffer from a
24 debilitating medical condition, the card shall become null
25 and void upon notification by the Department to the
26 qualifying patient.

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

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

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

18 (6) If a registered qualifying patient or registered
19 primary caregiver loses his or her registry identification
20 card, he or she shall notify the Department and submit a
21 \$10 fee within 10 days of losing the card. Within 5 days
22 after such notification, the Department shall issue a new
23 registry identification card with a new random
24 identification number.

25 (g) Possession of, or application for, a registry
26 identification card shall not constitute probable cause or

1 reasonable suspicion, nor shall it be used to support the
2 search of the person or property of the person possessing or
3 applying for the registry identification card.

4 (h) The following confidentiality rules shall apply:

5 (1) Applications and supporting information submitted
6 by qualifying patients, including information regarding
7 their primary caregivers and physicians, are confidential.

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

16 (3) The Department shall verify to law enforcement
17 personnel whether a registry identification card is valid,
18 without disclosing more information than is reasonably
19 necessary to verify the authenticity of the registry
20 identification card.

21 (4) It is a Class B misdemeanor for any person,
22 including an employee or official of the Department or
23 another state agency or local government, to breach the
24 confidentiality of information obtained pursuant to this
25 Act. Notwithstanding this provision, Department employees
26 may notify law enforcement about falsified or fraudulent

1 information submitted to the Department, so long as the
2 employee who suspects that falsified or fraudulent
3 information has been submitted confers with his or her
4 supervisor (or at least one other employee of the
5 Department) and both agree that circumstances exist that
6 warrant reporting.

7 (i) The Department shall submit to the General Assembly an
8 annual report that does not disclose any identifying
9 information about qualifying patients, primary caregivers, or
10 physicians, but does contain, at a minimum, all of the
11 following information:

12 (1) The number of applications and renewals filed for
13 registry identification cards.

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

16 (3) The nature of the debilitating medical conditions
17 of the qualifying patients.

18 (4) The number of registry identification cards
19 revoked.

20 (5) The number of physicians providing written
21 certifications for qualifying patients.

22 (j) The Department shall develop and disseminate
23 educational information about the health risks associated with
24 the abuse of cannabis and prescription medications, which shall
25 be funded by the \$3 fees generated from registry identification
26 cards.

1 Section 30. Scope of Act.

2 (a) This Act shall not permit any person to do any of the
3 following, nor shall it prevent the imposition of any civil,
4 criminal, or other penalties for any such actions:

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

8 (2) Possess cannabis, or otherwise engage in the
9 medical use of cannabis:

10 (A) in a school bus;

11 (B) on the grounds of any preschool or primary or
12 secondary school; or

13 (C) in any correctional facility.

14 (3) Smoke cannabis:

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

16 (B) in any public place.

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

24 (5) Use cannabis if that person does not have a serious
25 or debilitating medical condition.

1 (6) Allow any person who is not allowed to use cannabis
2 under this Act to use cannabis that a cardholder is allowed
3 to possess pursuant to this Act.

4 (7) Transfer cannabis to any person who is not allowed
5 to possess cannabis under this Act.

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

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

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

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

24 (d) Nothing in this Act shall be construed to prevent the
25 arrest or prosecution of a registered qualifying patient for
26 reckless driving or driving under the influence of cannabis

1 where probable cause exists.

2 (e) This Act shall in no way limit an employer's ability to
3 discipline an employee for ingesting cannabis in the workplace
4 or for working while under the influence of cannabis. This Act
5 shall in no way limit an employer's ability to discipline an
6 employee for failing a drug test if failing to do so would put
7 the employer in violation of federal law or cause it to lose a
8 federal contract or funding.

9 Section 35. Affirmative defense and dismissal for medical
10 cannabis.

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

16 (1) A physician has stated that, in the physician's
17 professional opinion, after having completed a full
18 assessment of the patient's medical history and current
19 medical condition made in the course of a bona fide
20 physician-patient relationship, the patient is likely to
21 receive therapeutic or palliative benefit from the medical
22 use of cannabis to treat or alleviate the patient's serious
23 or debilitating medical condition or symptoms associated
24 with the patient's serious or debilitating medical
25 condition; and

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

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

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

21 (c) If a patient or a patient's primary caregiver
22 demonstrates the patient's medical purpose for using cannabis
23 pursuant to this Section, the patient and the patient's primary
24 caregiver shall not be subject to the following for the
25 patient's use of cannabis for medical purposes:

26 (1) disciplinary action by a business or occupational

1 or professional licensing board or bureau; or
2 (2) forfeiture of any interest in or right to property.

3 Section 40. Enforcement of this Act.

4 (a) If the Department fails to adopt rules to implement
5 this Act within 120 days of the effective date of this Act, a
6 qualifying patient may commence an action in the Circuit Court
7 to compel the Department to perform the actions mandated
8 pursuant to the provisions of this Act.

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

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

24 Section 45. Medical cannabis organization.

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

14 (b) Registration requirements.

15 (1) The Department shall register a medical cannabis
16 organization and issue a registration certificate within
17 20 days to any person or entity that provides:

18 (A) A fee paid to the Department in the amount of
19 \$5,000;

20 (B) The legal name of the medical cannabis
21 organization;

22 (C) The physical address of the medical cannabis
23 organization and the physical address of one
24 additional location, if any, where cannabis will be
25 cultivated;

26 (D) The name, address, and date of birth of each

1 principal officer and board member of the medical
2 cannabis organization;

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

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

20 (3) The Department shall issue each principal officer,
21 board member, agent, and employee of a medical cannabis
22 organization a registry identification card within 10 days
23 of receipt of the person's name, address, date of birth,
24 and a fee in an amount established by the Department. Each
25 card shall specify that the cardholder is a principal
26 officer, board member, agent, or employee of a medical

1 cannabis organization and shall contain the following:

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

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

7 (C) A random identification number that is unique
8 to the cardholder;

9 (D) The date of issuance and expiration date of the
10 registry identification card; and

11 (E) A photograph, if the Department decides to
12 require one.

13 (4) The Department shall not issue a registry
14 identification card to any principal officer, board
15 member, agent, or employee of a medical cannabis
16 organization who has been convicted of a felony drug
17 offense. The Department may conduct a background check of
18 each principal officer, board member, agent, or employee in
19 order to carry out this provision. The Department shall
20 notify the medical cannabis organization in writing of the
21 purpose for denying the registry identification card.
22 However, the Department shall grant such person a registry
23 identification card if the Department determines that the
24 person's conviction was for the medical use of cannabis or
25 assisting with the medical use of cannabis.

26 (c) Authority of the Department. Not later than 120 days

1 after the effective date of this Act, the Department shall
2 promulgate rules governing the manner in which it shall
3 consider applications for and renewals of registration
4 certificates for medical cannabis organizations, including
5 rules governing:

6 (1) The form and content of registration and renewal
7 applications;

8 (2) Minimum oversight requirements for medical
9 cannabis organizations;

10 (3) Minimum record-keeping requirements for medical
11 cannabis organizations;

12 (4) Minimum security requirements for medical cannabis
13 organizations; and

14 (5) Procedures for suspending or terminating the
15 registration of medical cannabis organizations that
16 violate the provisions of this Section or the rules
17 promulgated pursuant to this subsection.

18 (d) Expiration. A medical cannabis organization
19 registration certificate and the registry identification card
20 for each principal officer, board member, agent, or employee
21 shall expire one year after the date of issuance. The
22 Department shall issue a renewal medical cannabis organization
23 registration certificate and renewal registry identification
24 cards within 10 days to any person who complies with the
25 requirements contained in subsection (b) of this Section.

26 (e) Inspection. Medical cannabis organizations are subject

1 to random inspection by the Department.

2 (f) Medical cannabis organization requirements.

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

6 (2) A medical cannabis organization shall notify the
7 Department within 10 days of when a principal officer,
8 board member, agent, or employee ceases to work at the
9 medical cannabis organization.

10 (3) A medical cannabis organization shall notify the
11 Department in writing of the name, address, and date of
12 birth of any new principal officer, board member, agent, or
13 employee and shall submit a fee in an amount established by
14 the Department for a new registry identification card
15 before a new agent or employee begins working at the
16 medical cannabis organization.

17 (4) A medical cannabis organization shall implement
18 appropriate security measures to deter and prevent
19 unauthorized entrance into areas containing cannabis and
20 the theft of cannabis.

21 (5) The operating documents of a medical cannabis
22 organization shall include procedures for the oversight of
23 the medical cannabis organization and procedures to ensure
24 accurate record keeping.

25 (6) A medical cannabis organization is prohibited from
26 acquiring, possessing, cultivating, manufacturing,

1 delivering, transferring, transporting, supplying, or
2 dispensing cannabis for any purpose except to assist
3 registered qualifying patients with the medical use of
4 cannabis directly or through the qualifying patients'
5 other primary caregiver.

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

9 (g) Immunity.

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

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

1 (h) Prohibitions.

2 (1) A medical cannabis organization may not possess an
3 amount of cannabis that exceeds the total of the allowable
4 amounts of cannabis for the registered qualifying patients
5 for whom the medical cannabis organization is a registered
6 primary caregiver.

7 (2) A medical cannabis organization may not dispense,
8 deliver, or otherwise transfer cannabis to a person other
9 than a qualifying patient who has designated the medical
10 cannabis organization as a primary caregiver or to such
11 patient's primary caregiver.

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

14 (4) A person convicted of violating paragraph (2) of
15 this subsection may not be an employee, agent, principal
16 officer, or board member of any medical cannabis
17 organization, and such person's registry identification
18 card shall be immediately revoked.

19 (5) No person who has been convicted of a felony drug
20 offense may be the principal officer, board member, agent,
21 or employee of a medical cannabis organization unless the
22 Department has determined that the person's conviction was
23 for the medical use of cannabis or assisting with the
24 medical use of cannabis and issued the person a registry
25 identification card as provided under subsection (b) (3). A
26 person who is employed by or is an agent, principal

1 officer, or board member of a medical cannabis organization
2 in violation of this Section is guilty of a civil violation
3 punishable by a fine of up to \$1,000. A subsequent
4 violation of this Section is a Class B misdemeanor.

5 Section 50. Repeal of Act. This Act is repealed 3 years
6 after its effective date.

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

9 (a) By July 1, 2011, the Department shall adopt rules
10 defining the quantity of cannabis that could reasonably be
11 presumed to be a 60-day supply for qualifying patients.

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

15 (c) Stakeholders shall include, but are not limited to:

16 (1) at least 3 physicians, one of whom must have prior
17 experience treating medical cannabis patients and another
18 who specializes in oncology;

19 (2) 2 nurses, one of whom must have prior experience
20 treating HIV/AIDS patients;

21 (3) a representative from hospice;

22 (4) a representative from the law enforcement
23 community;

24 (5) the Director of State Police or his or her

1 designee;

2 (6) a prosecuting attorney currently employed by the
3 State of Illinois;

4 (7) a public defender currently employed by the State
5 of Illinois;

6 (8) a defense attorney in private practice;

7 (9) a licensed phlebotomist;

8 (10) a horticulturist; and

9 (11) a representative of the business community.

10 Section 95. The Cannabis Control Act is amended by changing
11 Section 8 as follows:

12 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

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

20 (a) Not more than 5 plants is guilty of a Class A
21 misdemeanor, except that a violation under subsection (2) of
22 this Section is a Class 4 felony.

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

1 of this Section is a Class 3 felony.

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

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

25 (e) More than 200 plants is guilty of a Class 1 felony,
26 except that a violation under subsection (2) of this Section is

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

18 (2) Any person authorized pursuant to the provisions of the
19 Compassionate Use of Medical Cannabis Pilot Program Act to
20 produce or possess the cannabis sativa plant, who knowingly
21 produces the cannabis sativa plant or possesses such plants or
22 delivers such plants except as provided for in the
23 Compassionate Use of Medical Cannabis Pilot Program Act, is
24 guilty of violating this Section. Any violation of this
25 subsection (2) shall be punished according to the number of
26 plants involved in the violation as provided in subsection (1)

1 of this Section.

2 (3) Any registered qualifying patient or registered
3 primary caregiver who distributes cannabis to someone who is
4 not allowed to use cannabis is subject to a penalty enhancement
5 of not more than 2 years in prison or a fine of not more than
6 \$2,000, or both, for abuse of the Compassionate Use of Medical
7 Cannabis Pilot Program Act.

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

9 (720 ILCS 550/11 rep.)

10 (720 ILCS 550/15 rep.)

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

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 720 ILCS 550/8 from Ch. 56 1/2, par. 708

5 720 ILCS 550/11 rep.

6 720 ILCS 550/15 rep.

- 1 INDEX
- 2 Statutes amended in order of appearance
- 3 See Index