

# HOUSE BILL 1040

E1, J1

71r2389  
CF 71r3029

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By: **Delegates Oaks, Anderson, Carter, Glenn, McIntosh, Rosenberg, and Smigiel**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Compassionate Use Act**

3 FOR the purpose of allowing the medical use of marijuana under certain  
4 circumstances; repealing certain criminal provisions that allow the imposition of  
5 a certain fine for use or possession of marijuana or use or possession of drug  
6 paraphernalia related to marijuana under certain circumstances; establishing a  
7 Compassionate Use Registry Program; requiring the Department of Health and  
8 Mental Hygiene to issue registry identification cards to certain qualifying  
9 patients who submit certain documents under certain circumstances in order to  
10 qualify for use of marijuana for certain medical conditions; requiring the  
11 Department to verify application information and approve or deny an  
12 application or renewal within a certain time period or the application shall be  
13 deemed granted after a certain time period; allowing judicial review of an  
14 approval or denial of a petition or the denial of an application or renewal;  
15 specifying the duration of and the information that is required to be contained  
16 on the registry identification card; allowing the use in the State of a registry  
17 identification card issued by another state under certain circumstances;  
18 providing that a qualifying patient may not be subject to arrest or other penalty  
19 or disciplinary action for medical use of marijuana under certain circumstances;  
20 providing that a primary caregiver may not be subject to arrest or other penalty  
21 or disciplinary action for assisting with medical use of marijuana under certain  
22 circumstances; providing that a practitioner may not be subject to arrest or  
23 other penalty or disciplinary action for providing certifications of qualifying  
24 patients' debilitating medical conditions or other information under certain  
25 circumstances; providing that certain persons are not subject to arrest or

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



1 criminal prosecution under certain circumstances; providing that a nurse  
2 practitioner or pharmacist may not be subject to arrest or other penalty or  
3 disciplinary action solely for discussing the benefits or health risks of medical  
4 marijuana or other information under certain circumstances; providing that an  
5 application for or possession of a registry identification card may not be used to  
6 support the search of a certain person or property; prohibiting a school,  
7 employer, or landlord from refusing to enroll, employ, or lease to a person solely  
8 based on the person's status as a registered qualifying patient or primary  
9 caregiver; providing that a primary caregiver may only assist a certain number  
10 of qualifying patients with medical use of marijuana; providing that a primary  
11 caregiver may receive reimbursements for certain costs; establishing a certain  
12 presumption; requiring the Department to adopt regulations to implement this  
13 Act by a certain date with certain requirements; requiring that persons issued  
14 registry identification cards comply with certain requirements subject to certain  
15 penalties for noncompliance; providing that applications and supporting  
16 information submitted by qualifying patients are confidential with a certain  
17 limitation; providing a certain penalty for a certain breach of confidentiality;  
18 requiring the Department to report to the Governor and General Assembly on  
19 certain issues by a certain date; allowing a person or a person's primary  
20 caregiver to assert a defense to a prosecution involving marijuana under certain  
21 conditions; exempting certain property used in connection with the medical use  
22 of marijuana from forfeiture under certain circumstances; defining certain  
23 terms; and generally relating to the medical use of marijuana.

24 BY repealing and reenacting, with amendments,  
25 Article – Criminal Law  
26 Section 5–601(c) and 5–619(c)  
27 Annotated Code of Maryland  
28 (2002 Volume and 2006 Supplement)

29 BY adding to  
30 Article – Health – General  
31 Section 21–1117 through 21–1129 to be under the new part “Part IV. Maryland  
32 Compassionate Use Act”  
33 Annotated Code of Maryland  
34 (2005 Replacement Volume and 2006 Supplement)

35 Preamble

36 WHEREAS, Modern medical research has discovered beneficial uses for  
37 marijuana in treating or alleviating pain, nausea, and other symptoms associated with  
38 certain debilitating medical conditions, as found by the National Academy of Sciences'  
39 Institute of Medicine in March 1999; and

1 WHEREAS, According to the U.S. Sentencing Commission and the Federal  
2 Bureau of Investigation, 99 out of every 100 marijuana arrests in the United States  
3 are made under state law, rather than under federal law; and

4 WHEREAS, Changing state law will have the practical effect of protecting from  
5 arrest the vast majority of seriously ill people who have a medical need to use  
6 marijuana; and

7 WHEREAS, Although federal law currently prohibits any use of marijuana, the  
8 laws of Alaska, Arizona, California, Colorado, Hawaii, Maine, Montana, Nevada,  
9 Oregon, Vermont, and Washington permit the medical use and cultivation of  
10 marijuana, and Maryland joins in this effort for the health and welfare of its citizens;  
11 and

12 WHEREAS, States are not required to enforce federal law or prosecute people  
13 for engaging in activities prohibited by federal law and, therefore, compliance with  
14 this Act does not put the State of Maryland in violation of federal law; and

15 WHEREAS, State law should make a distinction between the medical and  
16 nonmedical use of marijuana; and

17 WHEREAS, The purpose of this Act is to protect patients with debilitating  
18 medical conditions, their physicians, and their primary caregivers from arrest and  
19 prosecution, criminal and other penalties, and property forfeiture if those patients  
20 engage in the medical use of marijuana; and

21 WHEREAS, The General Assembly enacts this Act pursuant to its police power  
22 to enact legislation for the protection of the health of its citizens, as reserved to the  
23 State in the Tenth Amendment of the United States Constitution; now, therefore,

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Criminal Law**

27 5–601.

28 (c) (1) Except as provided in [paragraphs] **PARAGRAPH** (2) [and (3)] of  
29 this subsection, a person who violates this section is guilty of a misdemeanor and on  
30 conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding  
31 \$25,000 or both.

1           (2) A person whose violation of this section involves the use or  
2 possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not  
3 exceeding \$1,000 or both.

4           [(3) (i) In a prosecution for the use or possession of marijuana, the  
5 defendant may introduce and the court shall consider as a mitigating factor any  
6 evidence of medical necessity.

7           (ii) Notwithstanding paragraph (2) of this subsection, if the  
8 court finds that the person used or possessed marijuana because of medical necessity,  
9 on conviction of a violation of this section, the maximum penalty that the court may  
10 impose on the person is a fine not exceeding \$100.]

11 5-619.

12           (c) (1) Unless authorized under this title, a person may not use or possess  
13 with intent to use drug paraphernalia to:

14                   (i) plant, propagate, cultivate, grow, harvest, manufacture,  
15 compound, convert, produce, process, prepare, test, analyze, pack, repack, store,  
16 contain, or conceal a controlled dangerous substance; or

17                   (ii) inject, ingest, inhale, or otherwise introduce into the human  
18 body a controlled dangerous substance.

19           (2) A person who violates this subsection is guilty of a misdemeanor  
20 and on conviction is subject to:

21                   (i) for a first violation, a fine not exceeding \$500; and

22                   (ii) for each subsequent violation, imprisonment not exceeding 2  
23 years or a fine not exceeding \$2,000 or both.

24           (3) A person who is convicted of violating this subsection for the first  
25 time and who previously has been convicted of violating subsection (d)(4) of this  
26 section is subject to the penalty specified under paragraph (2)(ii) of this subsection.

27           [(4) (i) In a prosecution under this subsection involving drug  
28 paraphernalia related to marijuana, the defendant may introduce and the court shall  
29 consider as a mitigating factor any evidence of medical necessity.

1 (ii) Notwithstanding paragraph (2) of this subsection, if the  
2 court finds that the person used or possessed drug paraphernalia related to marijuana  
3 because of medical necessity, on conviction of a violation of this subsection, the  
4 maximum penalty that the court may impose on the person is a fine not exceeding  
5 \$100.]

6 **Article - Health - General**

7 **21-1115. RESERVED.**

8 **21-1116. RESERVED.**

9 **PART IV. MARYLAND COMPASSIONATE USE ACT.**

10 **21-1117.**

11 (A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE  
12 THE MEANINGS INDICATED.

13 (B) (1) "DEBILITATING MEDICAL CONDITION" MEANS:

14 (I) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL  
15 CONDITION OR ITS TREATMENT THAT PRODUCES ONE OR MORE OF THE  
16 FOLLOWING:

- 17 1. CACHEXIA OR WASTING SYNDROME;
- 18 2. SEVERE, DEBILITATING, OR CHRONIC PAIN;
- 19 3. SEVERE NAUSEA;
- 20 4. SEIZURES, INCLUDING THOSE CHARACTERISTIC  
21 OF EPILEPSY;
- 22 5. SEVERE AND PERSISTENT MUSCLE SPASMS,  
23 INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS OR CROHN'S  
24 DISEASE; OR
- 25 6. AGITATION OF ALZHEIMER'S DISEASE; OR

1                   **(II) ANY OTHER MEDICAL CONDITION OR ITS TREATMENT**  
2 **APPROVED BY THE DEPARTMENT, UNDER § 21-1123 OF THIS SUBTITLE.**

3                   **(2) “DEBILITATING MEDICAL CONDITION” INCLUDES:**

4                   **(I) CANCER;**

5                   **(II) GLAUCOMA;**

6                   **(III) POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY**  
7 **VIRUS (HIV);**

8                   **(IV) ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS);**

9                   **(V) HEPATITIS C; AND**

10                   **(VI) THE TREATMENT OF THESE CONDITIONS.**

11                   **(C) “MARIJUANA” HAS THE MEANING STATED IN § 5-101 OF THE**  
12 **CRIMINAL LAW ARTICLE.**

13                   **(D) “MEDICAL USE” MEANS THE ACQUISITION, POSSESSION,**  
14 **CULTIVATION, MANUFACTURE, USE, DELIVERY, TRANSFER, OR**  
15 **TRANSPORTATION OF MARIJUANA OR PARAPHERNALIA RELATING TO THE**  
16 **CONSUMPTION OF MARIJUANA TO ALLEVIATE A REGISTERED QUALIFYING**  
17 **PATIENT’S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED**  
18 **WITH THE MEDICAL CONDITION.**

19                   **(E) “PRACTITIONER” MEANS A PERSON WHO IS LICENSED TO**  
20 **PRESCRIBE DRUGS UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.**

21                   **(F) “PRIMARY CAREGIVER” MEANS A PERSON WHO:**

22                   **(1) IS AT LEAST 21 YEARS OLD;**

23                   **(2) HAS AGREED TO ASSIST A PERSON WITH MEDICAL USE OF**  
24 **MARIJUANA; AND**

25                   **(3) DOES NOT HAVE A FELONY DRUG CONVICTION.**

1           (G) **“QUALIFYING PATIENT”** MEANS A PERSON WHO HAS BEEN  
2 **DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL CONDITION**  
3 **AND IS A RESIDENT OF THE STATE.**

4           (H) **“REGISTRY IDENTIFICATION CARD”** MEANS A DOCUMENT ISSUED BY  
5 **THE DEPARTMENT THAT IDENTIFIES A PERSON AS A QUALIFYING PATIENT OR A**  
6 **PRIMARY CAREGIVER.**

7           (I) (1) **“USABLE MARIJUANA”** MEANS THE DRIED LEAVES AND  
8 **FLOWERS OF THE MARIJUANA PLANT, AND ANY MIXTURE OR PREPARATION OF**  
9 **THE DRIED LEAVES AND FLOWERS OF THE MARIJUANA PLANT.**

10           (2) **“USABLE MARIJUANA”** DOES NOT INCLUDE THE SEEDS,  
11 **STALKS, AND ROOTS OF THE MARIJUANA PLANT.**

12 **21-1118.**

13           (A) **THERE IS A COMPASSIONATE USE REGISTRY PROGRAM.**

14           (B) **THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD**  
15 **TO A QUALIFYING PATIENT WHO SUBMITS THE FOLLOWING, IN ACCORDANCE**  
16 **WITH THIS SUBTITLE AND THE DEPARTMENT’S REGULATIONS:**

17           (1) **THE NAME, ADDRESS, AND DATE OF BIRTH OF THE**  
18 **QUALIFYING PATIENT;**

19           (2) **THE MEDICAL RECORDS OF THE QUALIFYING PATIENT;**

20           (3) **A STATEMENT SIGNED BY A PRACTITIONER STATING:**

21           (I) **THE PRACTITIONER HAS COMPLETED A FULL**  
22 **ASSESSMENT OF THE QUALIFYING PATIENT’S MEDICAL CONDITION AND**  
23 **HISTORY; AND**

24           (II) **THAT IN THE PRACTITIONER’S PROFESSIONAL OPINION**  
25 **THE POTENTIAL BENEFITS OF THE MEDICAL USE OF MARIJUANA WOULD LIKELY**  
26 **OUTWEIGH THE POTENTIAL HEALTH RISKS FOR THE QUALIFYING PATIENT;**

1           (4) A STATEMENT LISTING THE QUALIFYING PATIENT'S  
2 DEBILITATING MEDICAL CONDITION;

3           (5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
4 QUALIFYING PATIENT'S PRACTITIONER; AND

5           (6) IF THE QUALIFYING PATIENT HAS A PRIMARY CAREGIVER,  
6 THE NAME, ADDRESS, DATE OF BIRTH, AND TELEPHONE NUMBER OF THE  
7 PRIMARY CAREGIVER OF THE QUALIFYING PATIENT.

8           (c) THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD  
9 TO A PRIMARY CAREGIVER NAMED IN AN APPLICATION BY A QUALIFYING  
10 PATIENT, IN ACCORDANCE WITH THIS SUBTITLE AND THE DEPARTMENT'S  
11 REGULATIONS.

12           (d) THE DEPARTMENT MAY NOT ISSUE A REGISTRY IDENTIFICATION  
13 CARD TO A QUALIFYING PATIENT UNDER THE AGE OF 18 YEARS UNLESS:

14           (1) A PARENT, GUARDIAN, OR PERSON HAVING LEGAL CUSTODY  
15 OF A QUALIFYING PATIENT CONSENTS IN WRITING TO:

16                   (i) ALLOW THE QUALIFYING PATIENT'S MEDICAL USE OF  
17 MARIJUANA;

18                   (ii) SERVE AS THE QUALIFYING PATIENT'S CAREGIVER; AND

19                   (iii) CONTROL THE ACQUISITION OF, DOSAGE, AND  
20 FREQUENCY OF USE OF THE MARIJUANA BY THE QUALIFYING PATIENT; AND

21           (2) THE QUALIFYING PATIENT MEETS THE REQUIREMENTS  
22 UNDER SUBSECTION (B) OF THIS SECTION.

23           (e) THE DEPARTMENT SHALL:

24                   (1) VERIFY THE INFORMATION CONTAINED IN AN APPLICATION  
25 OR RENEWAL SUBMITTED UNDER SUBSECTIONS (B) AND (D) OF THIS SECTION;  
26 AND



1                   **(2) APPROVE OR DENY AN APPLICATION OR RENEWAL WITHIN 90**  
2 **DAYS.**

3                   **(F) IF THE DEPARTMENT FAILS TO APPROVE OR DENY A REGISTRY**  
4 **IDENTIFICATION APPLICATION OR RENEWAL SUBMITTED UNDER THIS SUBTITLE**  
5 **WITHIN 90 DAYS OF SUBMISSION, THE APPLICATION OR RENEWAL SHALL BE**  
6 **DEEMED GRANTED AND A COPY OF THE REGISTRY IDENTIFICATION**  
7 **APPLICATION OR RENEWAL SHALL BE DEEMED A VALID REGISTRY**  
8 **IDENTIFICATION CARD.**

9                   **(G) (1) THE DEPARTMENT MAY NOT DENY AN APPLICATION OR**  
10 **RENEWAL UNDER THIS SUBTITLE UNLESS THE APPLICANT FAILS TO PROVIDE**  
11 **THE INFORMATION REQUIRED UNDER THIS SUBTITLE OR THE DEPARTMENT**  
12 **DETERMINES THAT THE INFORMATION SUBMITTED WITH THE APPLICATION WAS**  
13 **FALSIFIED.**

14                   **(2) (I) DENIAL OF AN APPLICATION OR RENEWAL IS TO BE**  
15 **CONSIDERED A FINAL AGENCY DECISION SUBJECT TO JUDICIAL REVIEW.**

16                                 **(II) JURISDICTION AND VENUE FOR JUDICIAL REVIEW ARE**  
17 **VESTED IN THE CIRCUIT COURT.**

18                   **(H) THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD**  
19 **WITHIN 10 BUSINESS DAYS AFTER APPROVING AN APPLICATION OR RENEWAL**  
20 **UNDER THIS SUBTITLE TO EACH QUALIFYING PATIENT AND PRIMARY**  
21 **CAREGIVER.**

22                   **(I) A REGISTRY IDENTIFICATION CARD ISSUED UNDER THIS SECTION**  
23 **SHALL:**

24                                 **(1) EXPIRE WITHIN 1 YEAR AFTER THE DATE OF ISSUANCE AND**  
25 **INCLUDE THE DATE OF ISSUANCE AND EXPIRATION ON THE CARD;**

26                                 **(2) CONTAIN THE NAME, ADDRESS, AND DATE OF BIRTH OF THE**  
27 **QUALIFYING PATIENT AND THE PRIMARY CAREGIVER OF THE QUALIFYING**  
28 **PATIENT;**

29                                 **(3) HAVE A RANDOMLY ASSIGNED REGISTRY IDENTIFICATION**  
30 **NUMBER; AND**

1           **(4) A PHOTOGRAPH OF THE QUALIFYING PATIENT OR PRIMARY**  
2 **CAREGIVER.**

3           **(J) A REGISTRY IDENTIFICATION CARD OR ITS EQUIVALENT ISSUED**  
4 **UNDER THE LAWS OF ANOTHER STATE TO PERMIT THE MEDICAL USE OF**  
5 **MARIJUANA BY A QUALIFYING PATIENT, OR TO PERMIT A PERSON TO ASSIST**  
6 **WITH A QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA, SHALL HAVE THE**  
7 **SAME FORCE AND EFFECT OF A REGISTRY IDENTIFICATION CARD ISSUED BY**  
8 **THE DEPARTMENT UNDER THIS SUBTITLE.**

9 **21-1119.**

10           **(A) (1) A QUALIFYING PATIENT WHO HAS A REGISTRY**  
11 **IDENTIFICATION CARD ISSUED UNDER § 21-1118 OF THIS SUBTITLE MAY NOT**  
12 **BE SUBJECT TO ARREST, CRIMINAL PROSECUTION, OR PENALTY, OR DENIED A**  
13 **RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY**  
14 **A BUSINESS, OCCUPATIONAL, OR PROFESSIONAL LICENSING BOARD OR**  
15 **BUREAU, FOR THE MEDICAL USE OF MARIJUANA.**

16           **(2) A QUALIFYING PATIENT MAY NOT POSSESS AN AMOUNT OF**  
17 **MARIJUANA THAT EXCEEDS 12 MARIJUANA PLANTS PLUS 2.5 OUNCES OF**  
18 **USABLE MARIJUANA.**

19           **(B) (1) A PRIMARY CAREGIVER WHO HAS A REGISTRY**  
20 **IDENTIFICATION CARD ISSUED UNDER § 21-1118 OF THIS SUBTITLE MAY NOT**  
21 **BE SUBJECT TO ARREST, CRIMINAL PROSECUTION, OR PENALTY, OR DENIED A**  
22 **RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY**  
23 **A BUSINESS, OCCUPATIONAL, OR PROFESSIONAL LICENSING BOARD OR**  
24 **BUREAU, FOR ASSISTING A QUALIFYING PATIENT TO WHOM THE PRIMARY**  
25 **CAREGIVER IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION**  
26 **PROCESS WITH THE MEDICAL USE OF MARIJUANA.**

27           **(2) A PRIMARY CAREGIVER MAY NOT POSSESS AN AMOUNT OF**  
28 **MARIJUANA THAT EXCEEDS 12 MARIJUANA PLANTS PLUS 2.5 OUNCES OF**  
29 **USABLE MARIJUANA FOR EACH QUALIFYING PATIENT THE PRIMARY CAREGIVER**  
30 **IS ASSISTING THROUGH THE DEPARTMENT'S REGISTRATION PROCESS.**

1 (C) A PRACTITIONER MAY NOT BE SUBJECT TO ARREST, CRIMINAL  
2 PROSECUTION, OR PENALTY, OR DENIED A RIGHT OR PRIVILEGE, INCLUDING  
3 CIVIL PENALTY OR DISCIPLINARY ACTION BY THE STATE BOARD OF  
4 PHYSICIANS OR BY ANOTHER OCCUPATIONAL OR PROFESSIONAL LICENSING  
5 BOARD OR BUREAU SOLELY FOR PROVIDING CERTIFICATIONS OF QUALIFYING  
6 PATIENTS' DEBILITATING MEDICAL CONDITIONS OR STATING THAT, IN THE  
7 PRACTITIONER'S PROFESSIONAL OPINION, THE POTENTIAL BENEFITS OF  
8 MEDICAL MARIJUANA WOULD LIKELY OUTWEIGH THE POTENTIAL HEALTH  
9 RISKS FOR A PATIENT.

10 (D) A PERSON MAY NOT BE SUBJECT TO ARREST OR CRIMINAL  
11 PROSECUTION FOR POSSESSION, CONSPIRACY, AIDING AND ABETTING, BEING  
12 AN ACCESSORY, OR OTHER OFFENSE SOLELY FOR BEING IN THE PRESENCE OR  
13 VICINITY OF THE MEDICAL USE OF MARIJUANA AS PROVIDED UNDER THIS  
14 SUBTITLE OR FOR ASSISTING A REGISTERED QUALIFYING PATIENT WITH USING  
15 OR ADMINISTERING MARIJUANA IN ACCORDANCE WITH THIS SUBTITLE.

16 (E) A NURSE PRACTITIONER OR PHARMACIST MAY NOT BE SUBJECT TO  
17 ARREST, CRIMINAL PROSECUTION, OR PENALTY, OR DENIED A RIGHT OR  
18 PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY AN  
19 OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU SOLELY FOR  
20 DISCUSSING THE BENEFITS OR HEALTH RISKS OF MEDICAL MARIJUANA OR ITS  
21 INTERACTION WITH OTHER SUBSTANCES WITH A PATIENT.

22 (F) AN APPLICATION FOR OR POSSESSION OF A REGISTRY  
23 IDENTIFICATION CARD UNDER THIS SUBTITLE MAY NOT BE USED TO SUPPORT  
24 THE SEARCH OF A PERSON OR PROPERTY OR OTHERWISE SUBJECT A PERSON  
25 OR PROPERTY TO INSPECTION BY A GOVERNMENTAL AGENCY.

26 **21-1120.**

27 A SCHOOL, EMPLOYER, OR LANDLORD MAY NOT REFUSE TO ENROLL,  
28 EMPLOY, OR LEASE TO, OR OTHERWISE PENALIZE, A PERSON SOLELY FOR THE  
29 PERSON'S STATUS AS A REGISTERED QUALIFYING PATIENT OR A REGISTERED  
30 PRIMARY CAREGIVER.

31 **21-1121.**

1           (A) A PRIMARY CAREGIVER UNDER THIS SUBTITLE MAY NOT ASSIST  
2 MORE THAN FIVE QUALIFYING PATIENTS WITH THE MEDICAL USE OF  
3 MARIJUANA IN THE SAME TIME PERIOD.

4           (B) (1) A PRIMARY CAREGIVER MAY RECEIVE REIMBURSEMENT FOR  
5 COSTS ASSOCIATED WITH ASSISTING A REGISTERED QUALIFYING PATIENT'S  
6 MEDICAL USE OF MARIJUANA.

7                   (2) REIMBURSEMENT UNDER PARAGRAPH (1) OF THIS  
8 SUBSECTION DOES NOT CONSTITUTE SALE OF CONTROLLED SUBSTANCES.

9 **21-1122.**

10           (A) THERE IS A PRESUMPTION THAT A QUALIFYING PATIENT OR  
11 PRIMARY CAREGIVER IS ENGAGED IN THE MEDICAL USE OF MARIJUANA IF THE  
12 QUALIFYING PATIENT OR PRIMARY CAREGIVER:

13                   (1) POSSESSES A REGISTRY IDENTIFICATION CARD; AND

14                   (2) POSSESSES AN AMOUNT OF MARIJUANA THAT DOES NOT  
15 EXCEED THE ALLOWABLE AMOUNT UNDER THIS SUBTITLE.

16           (B) THE PRESUMPTION UNDER SUBSECTION (A) OF THIS SECTION MAY  
17 BE REBUTTED BY EVIDENCE OF CONDUCT THAT DEMONSTRATES THAT THE  
18 MARIJUANA WAS NOT FOR THE PURPOSE OF ALLEVIATING A QUALIFYING  
19 PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED  
20 WITH THE MEDICAL CONDITION.

21 **21-1123.**

22           (A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT  
23 THE PROVISIONS OF THIS SUBTITLE.

24           (B) (1) NO LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF  
25 THIS SUBTITLE, THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING  
26 THE MANNER IN WHICH IT SHALL CONSIDER PETITIONS FROM THE PUBLIC TO  
27 ADD DEBILITATING MEDICAL CONDITIONS TO THOSE INCLUDED IN THIS  
28 SUBTITLE.

1           (2) (I) IN CONSIDERING THE PETITIONS, THE DEPARTMENT  
2 SHALL PROVIDE PUBLIC NOTICE OF AND AN OPPORTUNITY TO COMMENT IN A  
3 PUBLIC HEARING ON THE PETITIONS.

4                       (II) THE DEPARTMENT SHALL, AFTER THE HEARING,  
5 APPROVE OR DENY PETITIONS SUBMITTED WITHIN 180 DAYS AFTER  
6 SUBMISSION.

7           (3) (I) THE APPROVAL OR DENIAL OF A PETITION SHALL BE  
8 CONSIDERED A FINAL AGENCY DECISION SUBJECT TO JUDICIAL REVIEW.

9                       (II) JURISDICTION AND VENUE FOR JUDICIAL REVIEW ARE  
10 VESTED IN THE CIRCUIT COURT.

11           (4) THE DENIAL OF A PETITION DOES NOT PREVENT A PERSON  
12 WITH THE DENIED CONDITION FROM RAISING AN AFFIRMATIVE DEFENSE TO A  
13 CHARGE FOR POSSESSION OF MARIJUANA.

14           (C) (1) NO LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF  
15 THIS SUBTITLE, THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING  
16 THE MANNER IN WHICH IT SHALL CONSIDER APPLICATIONS FOR AND RENEWALS  
17 OF REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND  
18 PRIMARY CAREGIVERS.

19                       (2) THE DEPARTMENT'S REGULATIONS SHALL ESTABLISH  
20 APPLICATION AND RENEWAL FEES THAT GENERATE REVENUES SUFFICIENT TO  
21 OFFSET ALL EXPENSES OF IMPLEMENTING AND ADMINISTERING THIS  
22 SUBTITLE.

23                       (3) THE DEPARTMENT MAY VARY THE APPLICATION AND  
24 RENEWAL FEES ALONG A SLIDING SCALE THAT ACCOUNTS FOR A QUALIFYING  
25 PATIENT'S INCOME.

26                       (4) THE DEPARTMENT MAY ACCEPT DONATIONS FROM PRIVATE  
27 SOURCES IN ORDER TO REDUCE THE APPLICATION AND RENEWAL FEES.

28 **21-1124.**

1           **(A) A QUALIFYING PATIENT WHO HAS BEEN ISSUED A REGISTRY**  
2 **IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF A CHANGE IN THE**  
3 **QUALIFYING PATIENT'S NAME, ADDRESS, OR PRIMARY CAREGIVER OR IF THE**  
4 **QUALIFYING PATIENT CEASES TO HAVE A DEBILITATING MEDICAL CONDITION**  
5 **WITHIN 10 DAYS AFTER THAT CHANGE.**

6           **(B) (1) A REGISTERED QUALIFYING PATIENT WHO FAILS TO NOTIFY**  
7 **THE DEPARTMENT OF A CHANGE IS SUBJECT TO A CIVIL PENALTY NOT**  
8 **EXCEEDING \$75.**

9           **(2) IF A PERSON HAS CEASED TO SUFFER FROM A DEBILITATING**  
10 **MEDICAL CONDITION, THE REGISTRATION CARD OF THE PERSON SHALL BE**  
11 **DEEMED VOID AND THE PERSON SHALL BE LIABLE FOR ANY PENALTIES THAT**  
12 **MAY APPLY TO THE PERSON'S NONMEDICAL USE OF MARIJUANA.**

13           **(C) (1) A REGISTERED PRIMARY CAREGIVER SHALL NOTIFY THE**  
14 **DEPARTMENT OF A CHANGE IN THE CAREGIVER'S NAME OR ADDRESS WITHIN 10**  
15 **DAYS AFTER THE CHANGE.**

16           **(2) A PRIMARY CAREGIVER WHO FAILS TO NOTIFY THE**  
17 **DEPARTMENT OF A CHANGE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING**  
18 **\$75.**

19           **(D) WHEN A QUALIFYING PATIENT OR PRIMARY CAREGIVER NOTIFIES**  
20 **THE DEPARTMENT OF A CHANGE REQUIRED UNDER THIS SECTION, THE**  
21 **DEPARTMENT SHALL ISSUE TO THE REGISTERED QUALIFYING PATIENT AND**  
22 **EACH PRIMARY CAREGIVER A NEW REGISTRY IDENTIFICATION CARD WITHIN 10**  
23 **BUSINESS DAYS AFTER RECEIVING THE UPDATED INFORMATION AND THE FEE**  
24 **SET BY THE DEPARTMENT.**

25           **(E) (1) WHEN A QUALIFYING PATIENT WHO POSSESSES A REGISTRY**  
26 **IDENTIFICATION CARD GIVES NOTICE OF A CHANGE IN THE PATIENT'S PRIMARY**  
27 **CAREGIVER, THE DEPARTMENT SHALL NOTIFY THE PRIMARY CAREGIVER**  
28 **WITHIN 10 DAYS.**

29           **(2) THE PRIMARY CAREGIVER'S PROTECTIONS AS PROVIDED IN**  
30 **THIS SUBTITLE SHALL EXPIRE 10 DAYS AFTER NOTIFICATION BY THE**  
31 **DEPARTMENT.**

1           **(F) (1) IF A REGISTERED QUALIFYING PATIENT OR A PRIMARY**  
2 **CAREGIVER LOSES THE REGISTRY IDENTIFICATION CARD, THE PATIENT OR**  
3 **CAREGIVER SHALL NOTIFY THE DEPARTMENT AND SUBMIT A FEE SET BY THE**  
4 **DEPARTMENT WITHIN 10 DAYS AFTER LOSING THE CARD.**

5           **(2) WITHIN 10 BUSINESS DAYS AFTER NOTIFICATION OF THE**  
6 **LOSS AND PAYMENT OF THE FEE SET BY THE DEPARTMENT, THE DEPARTMENT**  
7 **SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD WITH A NEW RANDOM**  
8 **IDENTIFICATION NUMBER.**

9           **(G) IF A QUALIFYING PATIENT OR A PRIMARY CAREGIVER WILLFULLY**  
10 **VIOLATES ANY PROVISION OF THIS SUBTITLE, AS DETERMINED BY THE**  
11 **DEPARTMENT, THE PATIENT'S OR CAREGIVER'S REGISTRY IDENTIFICATION**  
12 **CARD MAY BE REVOKED.**

13 **21-1125.**

14           **(A) (1) APPLICATIONS AND SUPPORTING INFORMATION SUBMITTED**  
15 **BY QUALIFYING PATIENTS, INCLUDING INFORMATION REGARDING THEIR**  
16 **PRIMARY CAREGIVERS AND PRACTITIONERS, ARE CONFIDENTIAL AND**  
17 **PROTECTED UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND**  
18 **ACCOUNTABILITY ACT OF 1996.**

19           **(2) (I) THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL**  
20 **LIST OF PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY**  
21 **IDENTIFICATION CARDS AND SHALL NOTIFY LOCAL AND STATE LAW**  
22 **ENFORCEMENT OF THE NUMBER OF QUALIFYING PATIENTS IN ANY GIVEN CITY**  
23 **OR TOWN.**

24           **(II) INDIVIDUAL NAMES AND OTHER IDENTIFYING**  
25 **INFORMATION ON THE LIST SHALL BE CONFIDENTIAL, EXEMPT FROM THE**  
26 **PROVISIONS OF THE MARYLAND PUBLIC INFORMATION ACT, AND NOT SUBJECT**  
27 **TO DISCLOSURE, EXCEPT TO AUTHORIZED EMPLOYEES OF THE DEPARTMENT AS**  
28 **NECESSARY TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT.**

29           **(B) THE DEPARTMENT MAY VERIFY TO LAW ENFORCEMENT**  
30 **PERSONNEL WHETHER A REGISTRY IDENTIFICATION CARD IS VALID BY**  
31 **CONFIRMING THE RANDOM REGISTRY IDENTIFICATION NUMBER.**

1           (c) (1) (i) A PERSON, INCLUDING AN EMPLOYEE OR OFFICIAL OF  
2 THE DEPARTMENT OR ANOTHER STATE AGENCY OR LOCAL GOVERNMENT, MAY  
3 NOT BREACH THE CONFIDENTIALITY OF INFORMATION OBTAINED PURSUANT TO  
4 THIS SUBTITLE.

5                           (ii) A PERSON WHO VIOLATES THIS PARAGRAPH IS GUILTY  
6 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
7 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

8           (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,  
9 EMPLOYEES OF THE DEPARTMENT MAY NOTIFY LAW ENFORCEMENT OFFICIALS  
10 ABOUT FALSIFIED OR FRAUDULENT INFORMATION SUBMITTED TO THE  
11 DEPARTMENT.

12 **21-1126.**

13           (A) ON OR BEFORE DECEMBER 31, 2009, THE DEPARTMENT SHALL  
14 REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE  
15 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE MEDICAL  
16 USE OF MARIJUANA.

17           (B) THE REPORT SHALL INCLUDE:

18                           (1) THE NUMBER OF APPLICATIONS FOR REGISTRY  
19 IDENTIFICATION CARDS RECEIVED BY THE DEPARTMENT, THE NUMBER OF  
20 QUALIFYING PATIENTS AND PRIMARY CAREGIVERS APPROVED, THE NATURE OF  
21 THE DEBILITATING MEDICAL CONDITIONS OF THE QUALIFYING PATIENTS, THE  
22 NUMBER OF REGISTRY IDENTIFICATION CARDS REVOKED, AND THE NUMBER OF  
23 PRACTITIONERS PROVIDING WRITTEN CERTIFICATION FOR QUALIFYING  
24 PATIENTS;

25                           (2) AN EVALUATION OF THE COSTS OF PERMITTING THE USE OF  
26 MARIJUANA FOR SYMPTOM RELIEF, INCLUDING ANY COSTS TO LAW  
27 ENFORCEMENT AGENCIES AND THE COSTS OF ANY LITIGATION;

28                           (3) STATISTICS REGARDING THE NUMBER OF  
29 MARIJUANA-RELATED PROSECUTIONS AGAINST REGISTERED PATIENTS AND  
30 CAREGIVERS, AND AN ANALYSIS OF THE FACTS UNDERLYING THOSE  
31 PROSECUTIONS;



1           **(4) STATISTICS REGARDING THE NUMBER OF PROSECUTIONS**  
2 **AGAINST PRACTITIONERS FOR VIOLATIONS OF THIS PART IV OF THIS SUBTITLE;**  
3 **AND**

4           **(5) A STATEMENT ON THE UNITED STATES FOOD AND DRUG**  
5 **ADMINISTRATION'S POSITION REGARDING THE USE OF MARIJUANA FOR**  
6 **MEDICAL PURPOSES OR APPROVED ALTERNATIVE DELIVERY SYSTEMS FOR**  
7 **MARIJUANA.**

8 **21-1127.**

9           **(A) (1) THIS PART IV OF THIS SUBTITLE DOES NOT AUTHORIZE:**

10                   **(I) A PERSON TO UNDERTAKE A TASK UNDER THE**  
11 **INFLUENCE OF MARIJUANA WHEN DOING SO WOULD CONSTITUTE NEGLIGENCE**  
12 **OR PROFESSIONAL MALPRACTICE;**

13                   **(II) THE SMOKING OF MARIJUANA:**

14                           **1. IN A SCHOOL BUS OR OTHER FORM OF PUBLIC**  
15 **TRANSPORTATION;**

16                           **2. ON ANY SCHOOL GROUNDS;**

17                           **3. IN ANY CORRECTIONAL FACILITY;**

18                           **4. IN ANY PUBLIC PLACE; OR**

19                           **5. IN ANY LICENSED DRUG TREATMENT FACILITY IN**  
20 **THE STATE; OR**

21                   **(III) A PERSON TO OPERATE, NAVIGATE, OR BE IN ACTUAL**  
22 **PHYSICAL CONTROL OF A MOTOR VEHICLE, AIRCRAFT, OR MOTORBOAT WHILE**  
23 **UNDER THE INFLUENCE OF MARIJUANA.**

24           **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A**  
25 **REGISTERED QUALIFYING PATIENT MAY NOT BE CONSIDERED TO BE UNDER THE**

1 INFLUENCE SOLELY FOR HAVING MARIJUANA METABOLITES IN THE PATIENT'S  
2 SYSTEM.

3 (B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO REQUIRE:

4 (1) A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE  
5 HEALTH INSURER TO REIMBURSE A PERSON FOR COSTS ASSOCIATED WITH THE  
6 MEDICAL USE OF MARIJUANA; OR

7 (2) AN EMPLOYER TO ACCOMMODATE THE MEDICAL USE OF  
8 MARIJUANA IN A WORKPLACE.

9 (C) FRAUDULENT REPRESENTATION TO A LAW ENFORCEMENT  
10 OFFICIAL OF ANY FACT OR CIRCUMSTANCE RELATING TO THE MEDICAL USE OF  
11 MARIJUANA TO AVOID ARREST OR PROSECUTION IS PUNISHABLE BY A FINE OF  
12 \$500, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES THAT MAY  
13 APPLY FOR MAKING A FALSE STATEMENT TO A LAW ENFORCEMENT OFFICIAL.

14 **21-1128.**

15 (A) EXCEPT AS PROVIDED IN § 21-1127 OF THIS SUBTITLE, A PERSON  
16 OR A PERSON'S PRIMARY CAREGIVER MAY ASSERT THE MEDICAL PURPOSE FOR  
17 USING MARIJUANA AS A DEFENSE TO ANY PROSECUTION INVOLVING  
18 MARIJUANA, AND THE DEFENSE SHALL BE PRESUMED VALID WHERE A  
19 PREPONDERANCE OF THE EVIDENCE SHOWS THAT:

20 (1) THE QUALIFYING PATIENT'S MEDICAL RECORDS INDICATE  
21 AND A PRACTITIONER HAS STATED THAT, IN THE PRACTITIONER'S  
22 PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL ASSESSMENT OF  
23 THE PERSON'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION MADE IN  
24 THE COURSE OF A BONA FIDE PRACTITIONER-PATIENT RELATIONSHIP, THE  
25 POTENTIAL BENEFITS OF USING MARIJUANA FOR MEDICAL PURPOSES WOULD  
26 LIKELY OUTWEIGH THE HEALTH RISKS FOR THE QUALIFYING PATIENT; AND

27 (2) THE PERSON OR THE PERSON'S PRIMARY CAREGIVER WAS IN  
28 POSSESSION OF A QUANTITY OF MARIJUANA THAT WAS NOT MORE THAN WHAT  
29 IS PERMITTED UNDER THIS SUBTITLE TO ENSURE THE UNINTERRUPTED  
30 AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF ALLEVIATING THE

1 PERSON'S MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE MEDICAL  
2 CONDITION.

3 (B) A PERSON MAY ASSERT THE MEDICAL PURPOSE FOR USING  
4 MARIJUANA IN A MOTION TO DISMISS CHARGES FOR POSSESSION OF  
5 MARIJUANA.

6 (C) IF THE PERSON OR THE PERSON'S PRIMARY CAREGIVER  
7 DEMONSTRATES THE PERSON'S MEDICAL PURPOSE FOR USING MARIJUANA  
8 PURSUANT TO THIS SECTION, AN INTEREST IN OR RIGHT TO PROPERTY THAT  
9 WAS POSSESSED, OWNED, OR USED IN CONNECTION WITH A PERSON'S USE OF  
10 MARIJUANA FOR MEDICAL PURPOSES MAY NOT BE SUBJECT TO FORFEITURE  
11 SOLELY FOR THE POSSESSION OR USE OF MARIJUANA.

12 **21-1129.**

13 THIS PART IV OF THIS SUBTITLE MAY BE CITED AS THE "MARYLAND  
14 COMPASSIONATE USE ACT".

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2007.