

SENATE BILL 757

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71r3029
CF HB 1040

By: **Senator Gladden**

Introduced and read first time: February 12, 2007

Assigned to: Rules

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
26 criminal prosecution under certain circumstances; providing that a nurse

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 5–601(c) and 5–619(c)

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY adding to

Article – Health – General

Section 21–1117 through 21–1129 to be under the new part “Part IV. Maryland
Compassionate Use Act”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, Modern medical research has discovered beneficial uses for marijuana in treating or alleviating pain, nausea, and other symptoms associated with certain debilitating medical conditions, as found by the National Academy of Sciences' 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.

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

Article – Health – General

21-1115. RESERVED.

21-1116. RESERVED.

PART IV. MARYLAND COMPASSIONATE USE ACT.

21-1117.

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

(B) (1) “DEBILITATING MEDICAL CONDITION” MEANS:

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

- 1. CACHEXIA OR WASTING SYNDROME;**
- 2. SEVERE, DEBILITATING, OR CHRONIC PAIN;**
- 3. SEVERE NAUSEA;**
- 4. SEIZURES, INCLUDING THOSE CHARACTERISTIC OF EPILEPSY;**
- 5. SEVERE AND PERSISTENT MUSCLE SPASMS, INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS OR CROHN’S DISEASE; OR**
- 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.