



## 93RD GENERAL ASSEMBLY

### State of Illinois

### 2003 and 2004

Introduced 02/04/04, by Angelo Saviano, Larry McKeon, Susana Mendoza

#### SYNOPSIS AS INTRODUCED:

New Act  
720 ILCS 550/11

from Ch. 56 1/2, par. 711

Creates the Medical Cannabis Act. Provides that a person who has been diagnosed by a physician as having a debilitating medical condition and the person's primary caregiver may be issued a registry identification card by the Department of Human Services that permits the person or the person's primary caregiver to legally possess no more than 6 Cannabis Sativa plants and one ounce of usable cannabis. Provides that a person who possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including civil penalty or disciplinary action by a professional licensing board, for the medical use of cannabis; provided that the qualifying patient or primary caregiver possesses an amount of cannabis that does not exceed 6 Cannabis Sativa plants and one ounce of usable cannabis. Amends the Cannabis Control Act to make conforming changes consistent with the Medical Cannabis Act. Effective immediately.

LRB093 15939 RLC 44137 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning the medicinal use of cannabis.

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

4 Section 1. Short title. This Act may be cited as the  
5 Medical Cannabis Act.

6 Section 5. Purpose.

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

12 (b) According to the U.S. Sentencing Commission and the  
13 Federal Bureau of Investigation, 99 out of every 100 cannabis  
14 arrests in the U.S. are made under state law, rather than under  
15 federal law. Consequently, changing state law will have the  
16 practical effect of protecting from arrest the vast majority of  
17 seriously ill people who have a medical need to use cannabis.

18 (c) Although federal law currently prohibits the use of  
19 cannabis, the laws of Alaska, California, Colorado, Hawaii,  
20 Maine, Nevada, Oregon, and Washington permit the medical use  
21 and cultivation of cannabis. Illinois joins in this effort for  
22 the health and welfare of its citizens.

23 (d) States are not required to enforce federal law or  
24 prosecute people for engaging in activities prohibited by  
25 federal law. Therefore, compliance with this Act does not put  
26 the State of Illinois in violation of federal law.

27 (e) State law should make a distinction between the medical  
28 and non-medical use of cannabis. Hence, the purpose of this Act  
29 is to protect patients with debilitating medical conditions,  
30 and their physicians and primary caregivers, from arrest and  
31 prosecution, criminal and other penalties, and property  
32 forfeiture if such patients engage in the medical use of

1 cannabis.

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

4 "Debilitating medical condition" means:

5 (A) cancer, glaucoma, positive status for human  
6 immunodeficiency virus, acquired immune deficiency  
7 syndrome, or the treatment of these conditions;

8 (B) a chronic or debilitating disease or medical  
9 condition or its treatment that produces one or more of the  
10 following: cachexia or wasting syndrome; severe pain;  
11 severe nausea; seizures, including those characteristic of  
12 epilepsy; or severe and persistent muscle spasms,  
13 including those characteristic of multiple sclerosis or  
14 Crohn's disease; or

15 (C) any other medical condition or its treatment  
16 approved by the Department, as provided for as follows: Not  
17 later than 90 days after the effective date of this Act,  
18 the Department shall promulgate rules governing the manner  
19 in which it will consider petitions from the public to add  
20 debilitating medical conditions to those included in this  
21 Act. In considering those petitions, the Department shall  
22 include public notice of, and an opportunity to comment in  
23 a public hearing upon, the petitions. The Department shall,  
24 after hearing, approve or deny such petitions within 180  
25 days of submission. The approval or denial of such a  
26 petition shall be considered a final Department action,  
27 subject to judicial review under the Administrative Review  
28 Law. Jurisdiction and venue for judicial review are vested  
29 in the Circuit Court.

30 "Department" means the Department of Human Services or its  
31 successor agency.

32 "Cannabis" has the meaning given that term in Section 3 of  
33 the Cannabis Control Act.

34 "Medical use" means the acquisition, possession,  
35 cultivation, manufacture, use, delivery, transfer, or

1 transportation of cannabis or paraphernalia relating to the  
2 consumption of cannabis to alleviate the symptoms or effects of  
3 a qualifying patient's debilitating medical condition.

4 "Physician" means a person who is licensed to practice  
5 medicine in all its branches under the Medical Practice Act of  
6 1987.

7 "Primary caregiver" means a person who is at least 18 years  
8 old, who has never been convicted of a felony drug offense, and  
9 who has agreed not to provide cannabis to any person other than  
10 qualifying patients. A qualifying patient may have only one  
11 primary caregiver at any one time.

12 "Qualifying patient" means a person who has been diagnosed  
13 by a physician as having a debilitating medical condition.

14 "Registry identification card" means a document issued by  
15 the Department that identifies a person as a qualifying patient  
16 or primary caregiver.

17 "Usable cannabis" means the dried leaves and flowers of the  
18 Cannabis Sativa plant, and any mixture or preparation thereof,  
19 and does not include the seeds, stalks, and roots of the plant.

20 "Written certification" means the qualifying patient's  
21 medical records, or a statement signed by a physician, stating  
22 that in the physician's professional opinion, after having  
23 completed a full assessment of the qualifying patient's medical  
24 history and current medical condition made in the course of a  
25 bona fide physician-patient relationship, the qualifying  
26 patient has a debilitating medical condition and the potential  
27 benefits of the medical use of cannabis would likely outweigh  
28 the health risks for the qualifying patient.

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

30 (a) A qualifying patient who has in his or her possession a  
31 registry identification card is not subject to arrest,  
32 prosecution, or penalty in any manner, or denial of any right  
33 or privilege, including civil penalty or disciplinary action by  
34 a professional licensing board, for the medical use of  
35 cannabis, provided that the qualifying patient possesses an

1 amount of cannabis that does not exceed 6 Cannabis Sativa  
2 plants and one ounce of usable cannabis.

3 (b) Subsection (a) does not apply to a qualifying patient  
4 under the age of 18 years, unless:

5 (1) The qualifying patient's physician has explained  
6 the potential risks and benefits of the medical use of  
7 cannabis to the qualifying patient and to a parent,  
8 guardian, or person having legal custody of the qualifying  
9 patient; and

10 (2) A parent, guardian, or person having legal custody  
11 consents in writing to:

12 (A) allow the qualifying patient's medical use of  
13 cannabis;

14 (B) serve as the qualifying patient's primary  
15 caregiver; and

16 (C) control the acquisition of the cannabis, the  
17 dosage, and the frequency of the medical use of  
18 cannabis by the qualifying patient.

19 (c) A primary caregiver who has in his or her possession a  
20 registry identification card shall not be subject to arrest,  
21 prosecution, or penalty in any manner, or denial of any right  
22 or privilege, including civil penalty or disciplinary action by  
23 a professional licensing board, for assisting the qualifying  
24 patient to whom he or she is connected through the Department's  
25 registration process with the medical use of cannabis, provided  
26 that the primary caregiver possesses an amount of cannabis  
27 which does not exceed 6 Cannabis Sativa plants and one ounce of  
28 usable cannabis.

29 (d) There is a presumption that a qualifying patient or  
30 primary caregiver is engaged in the medical use of cannabis if  
31 the qualifying patient or primary caregiver:

32 (1) is in possession of a registry identification card;  
33 and

34 (2) is in possession of an amount of cannabis which  
35 does not exceed the amount permitted under this Act.

36 Such presumption may be rebutted by evidence that conduct

1 related to cannabis was not for the purpose of alleviating the  
2 symptoms or effects of a qualifying patient's debilitating  
3 medical condition.

4 (e) A primary caregiver may receive reasonable  
5 compensation for services provided to assist with a qualifying  
6 patient's medical use of cannabis.

7 (f) A physician shall not be subject to arrest,  
8 prosecution, or penalty in any manner, or denied any right or  
9 privilege, including civil penalty or disciplinary action by  
10 the Department of Professional Regulation or the Medical  
11 Disciplinary Board, for providing written certification for  
12 the medical use of cannabis to qualifying patients.

13 (g) Any interest in or right to property that is possessed,  
14 owned, or used in connection with the medical use of cannabis,  
15 or acts incidental to such use, shall not be forfeited.

16 (h) No person shall be subject to arrest or prosecution for  
17 "constructive possession," "conspiracy," or any other offense  
18 for simply being in the presence or vicinity of the medical use  
19 of cannabis as permitted under this Act.

20 (i) A registry identification card, or its equivalent,  
21 issued by another state government to permit the medical use of  
22 cannabis by a qualifying patient, or to permit a person to  
23 assist with a qualifying patient's medical use of cannabis,  
24 shall have the same force of effect as a registry  
25 identification card issued by the Department.

26 Section 20. Procedures and rules governing registration.

27 (a) Not later than 90 days after the effective date of this  
28 Act, the Department shall promulgate rules governing the manner  
29 in which it will consider applications for and renewals of  
30 registry identification cards for qualifying patients and  
31 primary caregivers. The Department's rules shall establish  
32 application and renewal fees that generate revenues sufficient  
33 to offset all expenses of implementing and administering this  
34 Act. The Department may vary the application and renewal fees  
35 along a sliding scale that accounts for a qualifying patient's

1 income. The Department may accept donations from private  
2 sources in order to reduce the application and renewal fees.

3 (b) 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 that the person is a  
7 qualifying patient;

8 (2) application or renewal fee;

9 (3) the name, address, and date of birth of the  
10 qualifying patient;

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

13 (5) the name, address, and date of birth of the  
14 qualifying patient's primary caregiver, if any.

15 (c) The Department shall verify the information contained  
16 in an application or renewal submitted under this Section, and  
17 shall approve or deny an application or renewal within 30 days  
18 of receipt of the application or renewal. The Department may  
19 deny an application or renewal only if the applicant did not  
20 provide the information required under this Section, or if the  
21 Department determines that the information provided was  
22 falsified.

23 (d) The Department shall issue a registry identification  
24 card to the primary caregiver who is named in a qualifying  
25 patient's approved application, so long as the primary  
26 caregiver signs a statement agreeing to provide cannabis only  
27 to qualifying patients who have named him or her as primary  
28 caregiver; provided, the Department may not issue a registry  
29 identification card to a proposed primary caregiver who has  
30 previously been convicted of a felony drug offense.

31 (e) The Department shall issue registry identification  
32 cards within 5 days of approving an application or renewal,  
33 which shall expire one year after the date of issuance.  
34 Registry identification cards shall contain: (1) name,  
35 address, and date of birth of the qualifying patient; (2) name,  
36 address, and date of birth of the qualifying patient's primary

1 caregiver, if any; (3) the date of issuance and expiration date  
2 of the registry identification card; and (4) other information  
3 that the Department may specify in its regulations.

4 (f) A person who possesses a registry identification card  
5 shall notify the Department of any change in the qualifying  
6 patient's name, address, physician, or primary caregiver, or  
7 change in status of the qualifying patient's debilitating  
8 medical condition, within 10 days of such change, or the  
9 registry identification card shall be deemed null and void.

10 (g) Possession of, or application for, a registry  
11 identification card does not alone constitute probable cause to  
12 search the person or property of the person possessing or  
13 applying for the registry identification card, or otherwise  
14 subject the person or property of the person possessing the  
15 card to inspection by any governmental agency.

16 (h) The Department shall maintain a confidential list of  
17 the persons to whom the Department has issued registry  
18 identification cards. Individual names and other identifying  
19 information on the list shall be confidential, exempt from the  
20 Freedom of Information Act, and not subject to disclosure,  
21 except to:

22 (1) authorized employees of the Department as  
23 necessary to perform official duties of the Department; or

24 (2) authorized employees of State or local law  
25 enforcement agencies, only as necessary to verify that a  
26 person who is engaged in the suspected or alleged medical  
27 use of cannabis is lawfully in possession of a registry  
28 identification card.

29 (i) The Department shall report annually to the General  
30 Assembly on the number of applications for registry  
31 identification cards, the number of qualifying patients and  
32 primary caregivers approved, the nature of the debilitating  
33 medical conditions of the qualifying patients, the number of  
34 registry identification cards revoked, and the number of  
35 physicians providing written certification for qualifying  
36 patients. The Department may not provide any identifying



1 information of qualifying patients, primary caregivers, or  
2 physicians.

3 (j) It is a Class B misdemeanor for any person, including  
4 employees and officials of the Department and other State and  
5 local governmental units or agencies, to provide any  
6 identifying information of qualifying patients or primary  
7 caregivers to a federal official or federal agency.

8 Section 25. Scope of Act.

9 (a) This Act does not permit:

10 (1) any person to operate, navigate, or be in actual  
11 physical control of any motor vehicle, aircraft, or  
12 motorboat while under the influence of cannabis; or

13 (2) the smoking of cannabis:

14 (A) in a school bus or other form of public  
15 transportation;

16 (B) on any school grounds;

17 (C) in any correctional facility; or

18 (D) at any public park, public beach, public  
19 recreation center, or youth center.

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

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

24 (2) an employer to accommodate the medical use of  
25 cannabis in any workplace.

26 (c) Notwithstanding any law to the contrary, fraudulent  
27 representation to a law enforcement official of any fact or  
28 circumstance relating to the medical use of cannabis to avoid  
29 arrest or prosecution is a petty offense punishable by a fine  
30 of \$500, which shall be in addition to any other penalties that  
31 may apply for the non-medical use of cannabis.

32 Section 30. Affirmative defense. A person and a person's  
33 primary caregiver, if any, may assert the medical use of  
34 cannabis as a defense to any prosecution involving cannabis,

1 and such defense shall be presumed valid where the evidence  
2 shows that:

3 (1) the person's medical records indicate, or a physician  
4 has stated that, in the physician's professional opinion, after  
5 having completed a full assessment of the person's medical  
6 history and current medical condition made in the course of a  
7 bona fide physician-patient relationship, the potential  
8 benefits of the medical use of cannabis would likely outweigh  
9 the health risks for the person; and

10 (2) the person and the person's primary caregiver, if any,  
11 were collectively in possession of a quantity of cannabis that  
12 was not more than was reasonably necessary to ensure the  
13 uninterrupted availability of cannabis for the purpose of  
14 alleviating the symptoms or effects of the person's medical  
15 condition.

16 Section 35. The Cannabis Control Act is amended by changing  
17 Section 11 as follows:

18 (720 ILCS 550/11) (from Ch. 56 1/2, par. 711)

19 Sec. 11. Authorization for use of cannabis for medical  
20 purposes. The Department may authorize the possession,  
21 production, manufacture, and delivery of substances containing  
22 cannabis in accordance with the Medical Cannabis Act. (a) The  
23 ~~Department, with the written approval of the Department of~~  
24 ~~State Police, may authorize the possession, production,~~  
25 ~~manufacture and delivery of substances containing cannabis by~~  
26 ~~persons engaged in research and when such authorization is~~  
27 ~~requested by a physician licensed to practice medicine in all~~  
28 ~~its branches, such authorization shall issue without~~  
29 ~~unnecessary delay where the Department finds that such~~  
30 ~~physician licensed to practice medicine in all its branches has~~  
31 ~~certified that such possession, production, manufacture or~~  
32 ~~delivery of such substance is necessary for the treatment of~~  
33 ~~glaucoma, the side effects of chemotherapy or radiation therapy~~  
34 ~~in cancer patients or such other procedure certified to be~~

1 ~~medically necessary; such authorization shall be, upon such~~  
2 ~~terms and conditions as may be consistent with the public~~  
3 ~~health and safety. To the extent of the applicable~~  
4 ~~authorization, persons are exempt from prosecution in this~~  
5 ~~State for possession, production, manufacture or delivery of~~  
6 ~~cannabis.~~

7 ~~(b) Persons registered under Federal law to conduct~~  
8 ~~research with cannabis may conduct research with cannabis~~  
9 ~~including, but not limited to treatment by a physician licensed~~  
10 ~~to practice medicine in all its branches for glaucoma, the side~~  
11 ~~effects of chemotherapy or radiation therapy in cancer patients~~  
12 ~~or such other procedure which is medically necessary within~~  
13 ~~this State upon furnishing evidence of that Federal~~  
14 ~~registration and notification of the scope and purpose of such~~  
15 ~~research to the Department and to the Department of State~~  
16 ~~Police of that Federal registration.~~

17 ~~(c) Persons authorized to engage in research may be~~  
18 ~~authorized by the Department to protect the privacy of~~  
19 ~~individuals who are the subjects of such research by~~  
20 ~~withholding from all persons not connected with the conduct of~~  
21 ~~the research the names and other identifying characteristics of~~  
22 ~~such individuals. Persons who are given this authorization~~  
23 ~~shall not be compelled in any civil, criminal, administrative,~~  
24 ~~legislative or other proceeding to identify the individuals who~~  
25 ~~are the subjects of research for which the authorization was~~  
26 ~~granted, except to the extent necessary to permit the~~  
27 ~~Department to determine whether the research is being conducted~~  
28 ~~in accordance with the authorization.~~

29 (Source: P.A. 84-25.)

30 Section 95. Severability. The provisions of this Act are  
31 severable under Section 1.31 of the Statute on Statutes.

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law.