

HB0341



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0341

by Rep. Barbara Wheeler

SYNOPSIS AS INTRODUCED:

410 ILCS 130/25

Amends the Compassionate Use of Medical Cannabis Pilot Program Act. Provides that a law enforcement or correctional agency, or any individual employed by a law enforcement or correctional agency, is not subject to criminal or civil liability as a result of taking any action within the scope of the official duties of the agency or individual to prohibit or prevent the possession or use of cannabis by a cardholder incarcerated at a correctional facility.

LRB099 03899 JLK 23915 b

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Compassionate Use of Medical Cannabis Pilot
5 Program Act is amended by changing Section 25 as follows:

6 (410 ILCS 130/25)

7 (Section scheduled to be repealed on January 1, 2018)

8 Sec. 25. Immunities and presumptions related to the medical
9 use of cannabis.

10 (a) A registered qualifying patient is not subject to
11 arrest, prosecution, or denial of any right or privilege,
12 including but not limited to civil penalty or disciplinary
13 action by an occupational or professional licensing board, for
14 the medical use of cannabis in accordance with this Act, if the
15 registered qualifying patient possesses an amount of cannabis
16 that does not exceed an adequate supply as defined in
17 subsection (a) of Section 10 of this Act of usable cannabis
18 and, where the registered qualifying patient is a licensed
19 professional, the use of cannabis does not impair that licensed
20 professional when he or she is engaged in the practice of the
21 profession for which he or she is licensed.

22 (b) A registered designated caregiver is not subject to
23 arrest, prosecution, or denial of any right or privilege,

1 including but not limited to civil penalty or disciplinary
2 action by an occupational or professional licensing board, for
3 acting in accordance with this Act to assist a registered
4 qualifying patient to whom he or she is connected through the
5 Department's registration process with the medical use of
6 cannabis if the designated caregiver possesses an amount of
7 cannabis that does not exceed an adequate supply as defined in
8 subsection (a) of Section 10 of this Act of usable cannabis.
9 The total amount possessed between the qualifying patient and
10 caregiver shall not exceed the patient's adequate supply as
11 defined in subsection (a) of Section 10 of this Act.

12 (c) A registered qualifying patient or registered
13 designated caregiver is not subject to arrest, prosecution, or
14 denial of any right or privilege, including but not limited to
15 civil penalty or disciplinary action by an occupational or
16 professional licensing board for possession of cannabis that is
17 incidental to medical use, but is not usable cannabis as
18 defined in this Act.

19 (d) (1) There is a rebuttable presumption that a registered
20 qualifying patient is engaged in, or a designated caregiver is
21 assisting with, the medical use of cannabis in accordance with
22 this Act if the qualifying patient or designated caregiver:

23 (A) is in possession of a valid registry identification
24 card; and

25 (B) is in possession of an amount of cannabis that does
26 not exceed the amount allowed under subsection (a) of

1 Section 10.

2 (2) The presumption may be rebutted by evidence that
3 conduct related to cannabis was not for the purpose of treating
4 or alleviating the qualifying patient's debilitating medical
5 condition or symptoms associated with the debilitating medical
6 condition in compliance with this Act.

7 (e) A physician is not subject to arrest, prosecution, or
8 penalty in any manner, or denied any right or privilege,
9 including but not limited to civil penalty or disciplinary
10 action by the Medical Disciplinary Board or by any other
11 occupational or professional licensing board, solely for
12 providing written certifications or for otherwise stating
13 that, in the physician's professional opinion, a patient is
14 likely to receive therapeutic or palliative benefit from the
15 medical use of cannabis to treat or alleviate the patient's
16 debilitating medical condition or symptoms associated with the
17 debilitating medical condition, provided that nothing shall
18 prevent a professional licensing or disciplinary board from
19 sanctioning a physician for: (1) issuing a written
20 certification to a patient who is not under the physician's
21 care for a debilitating medical condition; or (2) failing to
22 properly evaluate a patient's medical condition or otherwise
23 violating the standard of care for evaluating medical
24 conditions.

25 (f) No person may be subject to arrest, prosecution, or
26 denial of any right or privilege, including but not limited to

1 civil penalty or disciplinary action by an occupational or
2 professional licensing board, solely for: (1) selling cannabis
3 paraphernalia to a cardholder upon presentation of an unexpired
4 registry identification card in the recipient's name, if
5 employed and registered as a dispensing agent by a registered
6 dispensing organization; (2) being in the presence or vicinity
7 of the medical use of cannabis as allowed under this Act; or
8 (3) assisting a registered qualifying patient with the act of
9 administering cannabis.

10 (g) A registered cultivation center is not subject to
11 prosecution; search or inspection, except by the Department of
12 Agriculture, Department of Public Health, or State or local law
13 enforcement under Section 130; seizure; or penalty in any
14 manner, or be denied any right or privilege, including but not
15 limited to civil penalty or disciplinary action by a business
16 licensing board or entity, for acting under this Act and
17 Department of Agriculture rules to: acquire, possess,
18 cultivate, manufacture, deliver, transfer, transport, supply,
19 or sell cannabis to registered dispensing organizations.

20 (h) A registered cultivation center agent is not subject to
21 prosecution, search, or penalty in any manner, or be denied any
22 right or privilege, including but not limited to civil penalty
23 or disciplinary action by a business licensing board or entity,
24 for working or volunteering for a registered cannabis
25 cultivation center under this Act and Department of Agriculture
26 rules, including to perform the actions listed under subsection

1 (g).

2 (i) A registered dispensing organization is not subject to
3 prosecution; search or inspection, except by the Department of
4 Financial and Professional Regulation or State or local law
5 enforcement pursuant to Section 130; seizure; or penalty in any
6 manner, or be denied any right or privilege, including but not
7 limited to civil penalty or disciplinary action by a business
8 licensing board or entity, for acting under this Act and
9 Department of Financial and Professional Regulation rules to:
10 acquire, possess, or dispense cannabis, or related supplies,
11 and educational materials to registered qualifying patients or
12 registered designated caregivers on behalf of registered
13 qualifying patients.

14 (j) A registered dispensing organization agent is not
15 subject to prosecution, search, or penalty in any manner, or be
16 denied any right or privilege, including but not limited to
17 civil penalty or disciplinary action by a business licensing
18 board or entity, for working or volunteering for a dispensing
19 organization under this Act and Department of Financial and
20 Professional Regulation rules, including to perform the
21 actions listed under subsection (i).

22 (k) Any cannabis, cannabis paraphernalia, illegal
23 property, or interest in legal property that is possessed,
24 owned, or used in connection with the medical use of cannabis
25 as allowed under this Act, or acts incidental to that use, may
26 not be seized or forfeited. This Act does not prevent the

1 seizure or forfeiture of cannabis exceeding the amounts allowed
2 under this Act, nor shall it prevent seizure or forfeiture if
3 the basis for the action is unrelated to the cannabis that is
4 possessed, manufactured, transferred, or used under this Act.

5 (l) Mere possession of, or application for, a registry
6 identification card or registration certificate does not
7 constitute probable cause or reasonable suspicion, nor shall it
8 be used as the sole basis to support the search of the person,
9 property, or home of the person possessing or applying for the
10 registry identification card. The possession of, or
11 application for, a registry identification card does not
12 preclude the existence of probable cause if probable cause
13 exists on other grounds.

14 (m) Nothing in this Act shall preclude local or State law
15 enforcement agencies from searching a registered cultivation
16 center where there is probable cause to believe that the
17 criminal laws of this State have been violated and the search
18 is conducted in conformity with the Illinois Constitution, the
19 Constitution of the United States, and all State statutes.

20 (n) Nothing in this Act shall preclude local or state law
21 enforcement agencies from searching a registered dispensing
22 organization where there is probable cause to believe that the
23 criminal laws of this State have been violated and the search
24 is conducted in conformity with the Illinois Constitution, the
25 Constitution of the United States, and all State statutes.

26 (o) No individual employed by the State of Illinois shall

1 be subject to criminal or civil penalties for taking any action
2 in accordance with the provisions of this Act, when the actions
3 are within the scope of his or her employment. Representation
4 and indemnification of State employees shall be provided to
5 State employees as set forth in Section 2 of the State Employee
6 Indemnification Act.

7 (p) No law enforcement or correctional agency, nor any
8 individual employed by a law enforcement or correctional
9 agency, shall be subject to criminal or civil liability as a
10 result of taking any action within the scope of the official
11 duties of the agency or individual to prohibit or prevent the
12 possession or use of cannabis by a cardholder incarcerated at a
13 correctional facility.

14 (Source: P.A. 98-122, eff. 1-1-14.)