

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

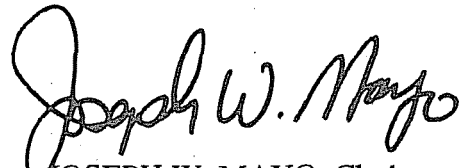
No. 1511

H.P. 1116

House of Representatives, May 14, 1993

An Act to Legalize Marijuana for Medicinal Purposes.

Reference to the Committee on Human Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LARRIVEE of Gorham.
Cosponsored by Senator: CONLEY of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 5 MRSA § 12004-G, sub-§14-B is enacted to read:

6 14-B. Participation \$40/Day 22 MRSA
8 Human Review Board §2424
10 Services

12 Sec. 2. 15 MRSA §5821, first ¶, as enacted by PL 1987, c. 420,
14 §2, is amended to read:

16 The Except as provided in section 5821-A, the following
18 shall-be are subject to forfeiture to the State and no property
20 right may exist in them:

22 Sec. 3. 15 MRSA §5821-A is enacted to read:

24 §5821-A. Property not subject to forfeiture based on medical
26 purposes

28 Property may not be forfeited under this chapter in the
30 following situations.

32 1. Possession of marijuana for medical purposes. The
34 alleged offense that subjects the actor's property to forfeiture
36 is possession of marijuana under Title 22, section 2383; the
38 actor possessed the marijuana for the actor's own use; and:

40 A. The actor was diagnosed by a physician before the
42 alleged offense as having glaucoma. This paragraph is
44 repealed on October 1, 1996; or

46 B. The actor suffered from significant nausea or vomiting
48 as a result of chemotherapy or radiation therapy.

50 Sec. 4. 17-A MRSA §1117 is enacted to read:

52 §1117. Marijuana for medical purposes

1. It is an affirmative defense to a prosecution for
 possession of marijuana under Title 22, section 2383 that the
 actor possessed the marijuana for the actor's own use; and:

A. The actor was diagnosed by a physician before the
 alleged offense as having glaucoma. This paragraph is
 repealed on October 1, 1996; or

B. The actor suffered from significant nausea or vomiting
 as a result of chemotherapy or radiation therapy.

 Sec. 5. 22 MRSA §2383-C is enacted to read:

2 **§2383-C. Marijuana for medical purposes**

4 **1. Patients.** Notwithstanding section 2383, subsection 1, a
6 person may possess a useable amount of marijuana if the person
8 possesses the marijuana for the person's own use and:

10 **A.** The person was diagnosed by a physician before the
12 alleged offense as having glaucoma. This paragraph is
14 repealed on October 1, 1996; or

16 **B.** The person suffered from significant nausea or vomiting
18 as a result of chemotherapy or radiation therapy.

20 **2. Juveniles.** Notwithstanding Title 15, section 3103,
22 subsection 1, paragraph B, a juvenile may possess a useable
24 amount of marijuana if the juvenile possesses the marijuana for
26 the juvenile's own use; the juvenile's parent or guardian
28 authorized the possession and use; and:

30 **A.** The juvenile was diagnosed by a physician before the
32 alleged offense as having glaucoma. This paragraph is
34 repealed on October 1, 1996; or

36 **B.** The juvenile suffered from significant nausea or
38 vomiting as a result of chemotherapy or radiation therapy.

40 **Sec. 6. 22 MRSA c. 558-C** is enacted to read:

42 **CHAPTER 558-C**

44 **MARIJUANA THERAPEUTIC RESEARCH PROGRAM**

46 **§2421. Short title**

48 This chapter may be cited as the "Marijuana Therapeutic
50 Research Act."

52 **§2422. Definitions**

54 As used in this chapter, unless the context indicates
56 otherwise, the following terms have the following meanings.

58 **1. Board.** "Board" means the Board of Registration in
60 Medicine as established in Title 5, §12004-A, subsection 24.

62 **2. Marijuana.** "Marijuana" means marijuana,
64 tetrahydrocannabinol or a chemical derivative of
66 tetrahydrocannabinol.

68 **3. Practitioner.** "Practitioner" means an allopathic or
70 osteopathic physician licensed to practice in this State.

2 4. Program. "Program" means the Marijuana Therapeutic
Research Program.

4 **§2423. Marijuana Therapeutic Research Program**

6 1. Establishment; administration. There is established
within the department the Marijuana Therapeutic Research
8 Program, administered by the commissioner.

10 2. Rules. Subject to Title 5, chapter 375, the department
shall adopt rules necessary for the proper administration of the
12 program. In adopting rules, the department shall consider
pertinent rules adopted by the federal Drug Enforcement Agency,
14 the federal Food and Drug Administration, the National Institute
on Drug Abuse and any other federal agency concerned with the
16 subject of this chapter.

18 3. Supply. The commissioner shall contract with the
National Institute on Drug Abuse for the receipt of marijuana
20 under rules adopted by the National Institute on Drug Abuse, the
federal Food and Drug Administration and the federal Drug
22 Enforcement Agency. If, within a reasonable period of time, the
commissioner is unable to obtain marijuana as provided in this
24 subsection, the commissioner shall contract with appropriate law
enforcement agencies in this State for the receipt of confiscated
26 marijuana not intended for use as evidence in any criminal
proceeding. Any marijuana so received must be made free of
28 impurities and analyzed for potency by the department.

30 4. Distribution. The commissioner shall deliver marijuana
received under subsection 3 to appropriate state or privately
32 operated licensed pharmacies designated by the commissioner. Any
marijuana so delivered must be distributed to patients upon the
34 written prescription of their approved practitioners. Any
privately operated licensed pharmacy designated by the
36 commissioner under this subsection is not liable, except for
gross negligence, in any civil action on account of marijuana
38 distributed to patients under this chapter.

40 **§2424. Participation Review Board**

42 The commissioner shall appoint the Participation Review
Board to review practitioners for participation in the program.
44 The board serves at the pleasure of the commissioner and consists
of at least:

46 1. Ophthalmology. A physician licensed to practice in this
48 State and certified by the American Board of Ophthalmology or the
American Osteopathic Board of Ophthalmology and
50 Otorhinolaryngology; and

2 2. Internal medicine. A physician licensed to practice in
3 this State and certified by the American Board of Internal
4 Medicine or the American Osteopathic Board of Internal Medicine
5 and also certified in the subspecialty of medical oncology.

6 Members of the board are entitled to compensation for
7 attendance at meetings at the rate of \$40 per day.

8
9 **§2425. Participation in the program**

10 1. Application. Any practitioner who wants to participate
11 in the program must apply to the board for approval and pay a \$50
12 application fee.

13 2. Review and approval. The board shall review all
14 applicants and approve them for participation if they are
15 eligible under subsection 3 and the rules adopted by the
16 department under section 2424, subsection 2. In performing these
17 duties, the board is subject to Title 5, chapter 375.

18 3. Prescriptions. A practitioner approved for
19 participation in the program may prescribe marijuana to only
20 those patients who are undergoing chemotherapy or radiation
21 therapy or suffering from glaucoma, who are in a life-threatening
22 or sense-threatening situation and are not responding to
23 conventional treatment or who are suffering severe side effects
24 even though conventional treatment is proving effective.

25 **§2426. Expressly authorized possession, prescription and**
26 **distribution**

27 A practitioner approved for participation in the program is
28 expressly authorized to prescribe marijuana under this chapter.
29 A patient for whom marijuana has been prescribed by a
30 practitioner approved for participation in the program is
31 expressly authorized to possess marijuana under this chapter. A
32 state or privately operated licensed pharmacy designated by the
33 commissioner is expressly authorized to possess and distribute
34 marijuana under this chapter.

35 **§2427. Confidentiality**

36 1. Access to information. Only the following persons have
37 access to the name and other identifying characteristics of a
38 patient for whom marijuana has been prescribed under this chapter:

39 A. The commissioner;

40 B. The board;

41 C. The Attorney General or the Attorney General's designee;

2 D. Any person directly connected with the program who has a
3 legitimate need for the information; and

4 E. Any person for whom access has been specifically
5 authorized by that patient.

6 Meetings and records of the board are not subject to the
7 requirements of Title 1, chapter 13.

10 2. Exceptions. Nothing in this section may affect the
11 right to inspect the records of any pharmacy under Title 32,
12 section 13723, or prohibit access to or release of information
13 concerning any persons acting under authority of this chapter
14 with respect to conduct not expressly authorized by this chapter.

16 **§2428. Reports**

18 The commissioner and the board shall report annually their
19 findings and recommendations regarding the program to the
20 Governor and the Legislature.

22
24 **STATEMENT OF FACT**

26 This bill reestablishes the Marijuana Therapeutic Research
27 Program, administered by the Commissioner of Human Services,
28 which was repealed December 31, 1987. The Board of Registration
29 in Medicine must review any patient wishing to participate in the
30 program. Participation is limited to chemotherapy or radiation
31 therapy and glaucoma patients who are not responding to
32 conventional treatment or who are suffering severe side effects,
33 and any other patient when medical evidence presented to the
34 board justifies that participation. If the board approves a
35 patient, the patient's physician may write a prescription that
36 can be filled at a state or privately operated licensed pharmacy
37 designated by the board. The commissioner may obtain analyzed
38 marijuana available from the Federal Government and deliver it to
39 the pharmacy for dispensing to any approved patient with a
40 written prescription from the patient's physician. The
41 commissioner and the board are required to make an annual report
42 to the Governor and the Legislature, enabling both the
43 legislative branch and executive branch to monitor the program
44 closely. This bill also defines side effects of chemotherapy or
45 radiation therapy as "significant nausea or vomiting." The bill
46 also repeals the provisions related to glaucoma patients on
October 1, 1996.