

MAINE STATE LEGISLATURE

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R.S.

L.D. 1059

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DATE: May 13, 1997

(Filing No. S- 219)

HEALTH AND HUMAN SERVICES

Reported by: Majority

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A " to S.P. 319, L.D. 1059, Bill, "An Act to Establish the Maine Compassionate Use Act"

Amend the bill by striking out the title and substituting the following:

'An Act to Allow for Medicinal Use of Marijuana'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 22 MRSA §2383, sub-§§3 and 4 are enacted to read:

3. Affirmative defense. It is an affirmative defense to a prosecution for possession of marijuana under this section that the person possessed the marijuana for the person's own use and the person was diagnosed as suffering from glaucoma or significant nausea or vomiting as a result of AIDS or chemotherapy or radiation therapy for treatment of cancer.

A. The court may not allow use of the affirmative defense unless:

(1) There is no other evidence that the person possessed marijuana with the intent to furnish or traffick;

(2) The person did not use or display the marijuana in a public place, as defined in Title 17-A, section 501, subsection 5, paragraph A; and

(3) The amount of marijuana possessed is 1 1/4 ounce or less.

COMMITTEE AMENDMENT

2 B. A person claiming an affirmative defense under this
3 section shall file with the appropriate prosecuting
4 authority and with the Court at least 10 days prior to trial
5 written notice including:

6 (1) The person's intention to claim the affirmative
7 defense;

8 (2) The date of the initial qualifying diagnosis and
9 the name, address and telephone number of the person's
10 treating physician; and

11 (3) Copies of any medical records the person intends
12 to rely upon in establishing the affirmative defense.

13 C. Use of an affirmative defense under this section
14 constitutes a waiver of all claims and rights of
15 physician-patient privilege or confidentiality only for
16 purposes related to the affirmative defense.

17 4. Registration. A person who possesses 1 1/4 ounce or less
18 of marijuana for the person's own use in alleviating the
19 suffering caused by glaucoma or significant nausea or vomiting as
20 a result of AIDS or chemotherapy or radiation therapy for
21 treatment of cancer shall register with the Department of Public
22 Safety on a registry pursuant to rules adopted by the department.
23 Information on the registry must be kept confidential by the
24 department except that the department may release information if
25 a law enforcement agency or prosecuting authority requests
26 information about a registrant who has claimed an affirmative
27 defense under subsection 3. Rules adopted pursuant to this
28 section are routine technical rules as defined by Title 5,
29 chapter 375, subchapter II-A.'

30 Further amend the bill by inserting at the end before the
31 summary the following:

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FISCAL NOTE

The additional costs associated with establishing a registry
for persons using marijuana for medical purposes can be absorbed
by the Department of Public Safety utilizing existing budgeted
resources.

The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system
can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
General Fund revenue by minor amounts.'

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SUMMARY

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6 This amendment replaces the bill. It enacts an affirmative
8 defense to the civil infraction of possession of marijuana for
10 persons suffering from glaucoma or nausea or vomiting as a result
of AIDS or chemotherapy or radiation therapy for treatment of
cancer. It requires registration with the Department of Public
Safety by persons using marijuana for medical purposes. The
amendment also adds a fiscal note to the bill.