

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2109

I.B. 2

House of Representatives, March 30, 1999

An Act to Permit the Medical Use of Marijuana.

Transmitted to the Clerk of the 119th Maine Legislature by the Secretary of State on March 18, 1999 and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

2 **Preamble.** The People of the State of Maine declare their
purposes and intent in enacting the Maine Medical Marijuana Act
of 1998 to be the following:

4
6 Use of marijuana has been found to provide important
therapeutic and palliative benefits to many patients who suffer
8 from debilitating conditions resulting from certain diseases or
treatment of these diseases. Patients should be allowed to use
10 small amounts of marijuana without civil or criminal penalties
when their doctors advise that such use may provide a medical
12 benefit to them and when other reasonable restrictions are met
regarding that use.

14 This Act is intended to permit patients who may benefit from
the medical use of marijuana to be able to discuss freely with
16 their physicians the possible risks and benefits of medical
marijuana use and to have the benefit of their physicians'
18 professional advice.

20 Persons who have been legally designated as care givers to
medically needy patients should not be in violation of civil or
22 criminal laws when they assist these patients in using
permissible amounts of marijuana.

24 As there is currently no legally available supply of
26 marijuana for medically needy patients, these patients or their
care givers should be allowed to grow a small amount of marijuana
28 to meet the patient's medical requirements.

30 Enactment of this Act is intended to make only those changes
to existing Maine laws that are necessary to allow use of
32 marijuana by medically needy patients, and is not intended to
change current civil and criminal laws governing the use of
34 marijuana for nonmedical purposes.

36 Enactment of this Act is not intended to permit use of
marijuana in public places nor change any laws governing the duty
38 of care owed to others, including laws governing operating a
motor vehicle.

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

42 **Sec. 1. 15 MRSA §3103, sub-§1, ¶B,** as amended by PL 1977, c.
44 664, §11, is further amended to read:

46 B. The possession of a useable amount of marijuana, as
provided in Title 22, section 2383, unless the juvenile is
48 authorized to possess marijuana for medical use pursuant to
Title 22, section 2383-B, subsection 5;

2 **Sec. 2. 15 MRSA §5821, first ¶**, as enacted by PL 1987, c. 420,
3 §2, is amended to read:

4 The Except as provided in section 5821-A, the following
5 shall ~~be~~ are subject to forfeiture to the State and no property
6 right may exist in them:

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

8 **§5821-A. Property not subject to forfeiture based on medical use**
9 **of marijuana**

10 Beginning January 1, 1999, property is not subject to
11 forfeiture under this chapter if the activity that subjects the
12 person's property to forfeiture is possession of marijuana and
13 the person meets the requirements for medical use of marijuana
14 under Title 22, section 2383-B, subsection 5.

15 **Sec. 4. 17-A MRSA §1111-A, sub-§1**, as amended by PL 1981, c.
16 531, §§1 to 3, is further amended by amending the first paragraph
17 to read:

18 1. As used in this section, the term "drug paraphernalia"
19 means all equipment, products and materials of any kind which
20 that are used or intended for use in planting, propagating,
21 cultivating, growing, harvesting, manufacturing, compounding,
22 converting, producing, processing, preparing, testing, analyzing,
23 packaging, repackaging, storing, containing, concealing,
24 injecting, ingesting, inhaling or otherwise introducing into the
25 human body a scheduled drug in violation of this chapter or Title
26 22, section 2383, except that this section does not apply to a
27 person who is authorized to possess marijuana for medical use
28 pursuant to Title 22, section 2383-B, subsection 5, to the extent
29 the drug paraphernalia is required for that person's medical use
30 of marijuana. It includes, but is not limited to:

31 **Sec. 5. 17-A MRSA §1111-A, sub-§4**, as enacted by PL 1981, c.
32 266, is amended to read:

33 4. It is unlawful for any person to use, or to possess with
34 intent to use, drug paraphernalia to plant, propagate, cultivate,
35 grow, harvest, manufacture, compound, convert, produce, process,
36 prepare, test, analyze, pack, repack, store, contain, conceal,
37 inject, ingest, inhale or otherwise introduce into the human body
38 a scheduled drug in violation of this chapter or Title 22,
39 section 2383, except that this subsection does not apply to a
40 person who is authorized to possess marijuana for medical use
41 pursuant to Title 22, section 2383-B, subsection 5, to the extent
42 the drug paraphernalia is required for that person's medical use
43 of marijuana.

2 **Sec. 6. 22 MRSA §2383, sub-§1**, as amended by PL 1989, c. 344,
3, is further amended to read:

4
5 **1. Marijuana.** Possession Except as provided in section
6 2383-B, subsection 5, possession of a usable amount of marijuana
7 is a civil violation for which a forfeiture of not less than \$200
8 nor more than \$400 shall **must** be adjudged for the first
9 offense. A forfeiture of \$400 shall **must** be adjudged for the
10 2nd and subsequent offenses within a 6-year period.

11 **Sec. 7. 22 MRSA §2383-B, sub-§3, ¶¶A-1 and A-2** are enacted to
12 read:

13 **A-1. "Designated care giver"** means a person over 18 years
14 of age who:

15 (1) Is a family member or other person who has
16 consistently assumed responsibility for a person's
17 housing, health or safety; and

18 (2) Is named in a written individual instruction or
19 power of attorney for health care as defined in Title
20 18-A, section 5-801 by, or is the parent or legal
21 guardian of, a person authorized to possess marijuana
22 for medical use pursuant to subsection 5.

23 **A-2. "Eligible patient"** means a person authorized to
24 possess marijuana for medical use pursuant to subsection 5.

25 **Sec. 8. 22 MRSA §2383-B, sub-§3, ¶B-1** is enacted to read:

26 **B-1. "Physician"** means a person licensed as an osteopathic
27 physician by the Board of Osteopathic Licensure pursuant to
28 Title 32, chapter 36 or a person licensed as a physician or
29 surgeon by the Board of Licensure in Medicine pursuant to
30 Title 32, chapter 48.

31 **Sec. 9. 22 MRSA §2383-B, sub-§3, ¶E** is enacted to read:

32 **E. "Usable amount of marijuana for medical use"** means 1 1/4
33 ounces or less of harvested marijuana and a total of 6
34 plants, of which no more than 3 may be mature, flowering
35 plants.

36 **Sec. 10. 22 MRSA §2383-B, sub-§5** is enacted to read:

37 **5. Medical use of marijuana; exemptions.** The following
38 provisions govern the medical use of marijuana.

2 A. Notwithstanding any other provision of law, a person who
4 is at least 18 years of age may lawfully possess a usable
6 amount of marijuana for medical use if, at the time of that
8 possession, the person has available an authenticated copy
 of a medical record or other written documentation from a
 physician, demonstrating that:

10 (1) The person has been diagnosed by a physician as
 suffering from one or more of the following conditions:

12 (a) Persistent nausea, vomiting, wasting syndrome
14 or loss of appetite as a result of:

16 (i) Acquired immune deficiency syndrome or
 the treatment thereof; or

18 (ii) Chemotherapy or radiation therapy used
20 to treat cancer;

22 (b) Heightened intraocular pressure as a result
 of glaucoma;

24 (c) Seizures associated with a chronic,
26 debilitating disease, such as epilepsy; or

28 (d) Persistent muscle spasms associated with a
30 chronic, debilitating disease, such as multiple
 sclerosis;

32 (2) A physician, in the context of a bona fide
 physician-patient relationship with the person:

34 (a) Has discussed with the person the possible
36 health risks and therapeutic or palliative
38 benefits of the medical use of marijuana to
40 relieve pain or alleviate symptoms of the person's
42 condition, based on information known to the
44 physician, including, but not limited to, clinical
 studies or anecdotal evidence reported in medical
 literature or observations or information
 concerning the use of marijuana by other patients
 with the same or similar conditions;

46 (b) Has provided the person with the physician's
48 professional opinion concerning the possible
 balance of risks and benefits of the medical use
 of marijuana to relieve pain or alleviate symptoms
 in the person's particular case; and

2 (c) Has advised the person, on the basis of the
3 physician's knowledge of the person's medical
4 history and condition, that the person might
5 benefit from the medical use of marijuana to
6 relieve pain or alleviate symptoms of the person's
7 condition;
8
9 (3) The person has disclosed to the physician that
10 person's medical use of marijuana; and
11
12 (4) The person is under the continuing care of the
13 physician.
14
15 B. A person under 18 years of age may lawfully possess a
16 usable amount of marijuana for medical use if:
17
18 (1) The person meets the requirements of paragraph A,
19 subparagraphs (1) to (4); and
20
21 (2) The person:
22
23 (a) Has available a signed written authorization
24 from that person's parent or legal guardian
25 consenting to that person's medical use of
26 marijuana; or
27
28 (b) Is a minor who is entitled to give consent to
29 all medical and other health care services
30 pursuant to Title 22, section 1503.
31
32 C. Notwithstanding any other provision of law, a
33 designated care giver may lawfully possess a usable amount
34 of marijuana for medical use by an eligible patient if the
35 designated care giver is acting within the scope of the
36 designated care giver's duties to the eligible patient.
37
38 D. The fact that a person produces documentation described
39 in paragraph A does not constitute a waiver of the
40 physician-patient privilege in any other respect.
41
42 E. A physician who, in the context of a bona fide
43 physician-patient relationship, advises a patient that the
44 patient might benefit from the medical use of marijuana may
45 not be deemed to have violated any provision of Title 32,
46 section 2591-A, subsection 2 or section 3282-A, subsection 2.
47
48 F. Notwithstanding the provisions of paragraph A, medical
49 use of marijuana by an eligible patient is not authorized by
50 this section if such use occurs in a public place or in a
 workplace where such use is not permitted.

