

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1729, L.D. 2420, Bill, "An Act to Legalize Marijuana for Medicinal Purposes"

Amend the bill by inserting after section 1 the following:

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

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

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

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

Property may not be forfeited under this chapter in the following situations:

1. Possession of marijuana for medical purposes. The alleged offense that subjects the property to forfeiture is possession of marijuana under Title 17-A, section 1107 and the actor was diagnosed by a physician before the alleged offense as having glaucoma or the actor suffered from side effects of chemotherapy or radiation therapy, and the actor possessed the marijuana for the actor's own use;

2. Furnishing or possession of marijuana for medical purposes. The alleged offense that subjects the property to forfeiture is furnishing marijuana under Title 17-A, section 1106

2 or possession of marijuana under Title 17-A, section 1107 and the
3 actor obtained the marijuana for the sole purpose of providing
4 the marijuana without compensation to a person described in
5 subsection 1;

6 3. Growing or cultivating marijuana for medical purposes.
7 The alleged offense that subjects the property to forfeiture is
8 growing or cultivating marijuana under Title 17-A, section 1103
9 and:

10 A. The actor was diagnosed by a physician before the
11 alleged offense as having glaucoma or the actor suffered
12 from side effects of chemotherapy or radiation therapy and
13 the actor grew or cultivated the marijuana for the actor's
14 own use; or

15 B. The actor grew or cultivated the marijuana for the sole
16 purpose of providing it without compensation to a person
17 described in subsection 1;

18 4. Possession or use of drug paraphernalia for medical
19 purposes. The alleged offense that subjects the property to
20 forfeiture is possession or use of drug paraphernalia under Title
21 17-A, section 1111-A and:

22 A. The actor was diagnosed by a physician before the
23 alleged offense as having glaucoma or the actor suffered
24 from side effects of chemotherapy or radiation therapy and
25 the actor possessed or used the paraphernalia for the
26 actor's own ingestion of marijuana; or

27 B. The actor possessed paraphernalia for the sole purpose
28 of providing it without compensation to a person described
29 in subsection 1; or

30 5. Possession of a useable amount of marijuana for medical
31 purposes. The alleged offense that subjects the property to
32 forfeiture is possession of a useable amount of marijuana under
33 Title 22, section 2383, subsection 1 and the person may possess a
34 useable amount of marijuana under Title 22, section 2383-C.

35 Sec. 4. 17-A MRS §1117 is enacted to read:

36 §1117. Marijuana for medical purposes

37 1. It is an affirmative defense to a prosecution for
38 possession of marijuana under section 1107 that the actor was
39 diagnosed by a physician before the alleged offense as having
40 possession of marijuana under section 1107 that the actor was
41 diagnosed by a physician before the alleged offense as having

2 glaucoma or that the actor suffered from side effects of
3 chemotherapy or radiation therapy and the actor possessed the
4 marijuana for the actor's own use.

6 2. It is an affirmative defense to a prosecution for
7 furnishing marijuana under section 1106 or possession of
8 marijuana under section 1107 that the actor obtained the
9 marijuana for the sole purpose of providing the marijuana without
10 compensation to a person described in subsection 1.

12 3. It is an affirmative defense to a prosecution for
13 growing or cultivating marijuana under section 1103 that:

14 A. The actor was diagnosed by a physician before the
15 alleged offense as having glaucoma or the actor suffered
16 from side effects of chemotherapy or radiation therapy, and
17 the actor grew or cultivated the marijuana for the actor's
18 own use; or

20 B. The actor grew or cultivated the marijuana for the sole
21 purpose of providing it without compensation to a person
22 described in subsection 1.

24 4. It is an affirmative defense to a prosecution for
25 possession or use of drug paraphernalia under section 1111-A that:

26 A. The actor was diagnosed by a physician before the
27 alleged offense as having glaucoma or the actor suffered
28 from side effects of chemotherapy or radiation therapy, and
29 the actor possessed or used the paraphernalia for the
30 actor's own ingestion of marijuana; or

32 B. The actor possessed paraphernalia for the sole purpose
33 of providing it without compensation to a person described
34 in subsection 1.

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

38 **§2383-C. Marijuana for medical purposes**

40 1. Patients. Notwithstanding section 2383, subsection 1, a
41 person is authorized to possess a useable amount of marijuana if
42 the person was diagnosed by a physician before the alleged
43 offense as having glaucoma or the person suffered from side
44 effects of chemotherapy or radiation therapy and the person
45 possessed the marijuana for the person's own use.

47 2. Juveniles. Notwithstanding Title 15, section 3103,
48 subsection 1, paragraph B, a juvenile is authorized to possess a
49 useable amount of marijuana if the juvenile was diagnosed by a
50 physician before the alleged offense as having glaucoma or the juvenile suffered from side effects of chemotherapy or radiation therapy and the juvenile possessed the marijuana for the juvenile's own use.

2 physician before the alleged offense as having glaucoma or the
3 juvenile suffered from side effects of chemotherapy or radiation
4 therapy, the juvenile possessed the marijuana for the juvenile's
5 own use and the juvenile's parent or guardian authorized the
6 possession and use.

7 3. Persons acquiring for patients. Notwithstanding section
8 2383, subsection 1, a person is authorized to possess a useable
9 amount of marijuana if the person possesses the marijuana for the
10 sole purpose of providing the marijuana without compensation to a
11 person described in subsection 1 or 2.'

12
13 Further amend the bill in section 2 in that part designated
14 "~~§2423.~~" by striking out subsection 1 and inserting in its place
15 the following:

16
17 '1. Board. "Board" means the Participation Review Board as
18 established in Title 5, section 12004-G, subsection 14-B.'

19
20 Further amend the bill in section 2 by inserting after that
21 part designated "~~§2424.~~" the following:

22 '§2425. Participation Review Board

23
24 The commissioner shall appoint the Participation Review
25 Board to review practitioners for participation in the program.
26 The board serves at the pleasure of the commissioner and consists
27 of at least:

28
29 1. Ophthalmology. A physician licensed to practice in this
30 State and certified by the American Board of Ophthalmology or the
31 American Osteopathic Board of Ophthalmology and
32 Otorhinolaryngology; and

33
34 2. Internal medicine. A physician licensed to practice in
35 this State and certified by the American Board of Internal
36 Medicine or the American Osteopathic Board of Internal Medicine
37 and also certified in the subspecialty of medical oncology.

38
39 Members of the board are entitled to compensation for
40 attendance at meetings at the rate of \$40 per day.'

41
42 Further amend the bill in section 2 in that part designated
43 "~~§2425.~~" in subsection 1 in the 2nd line (page 2, line 39 in
44 L.D.) by striking out the following: "~~§50~~" and inserting in its
45 place the following: '~~§25~~'

46
47 Further amend the bill in section 2 by renumbering the
48 sections to read consecutively.

49
50 Further amend the bill by renumbering the sections to read
51 consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The Department of Human Services will require a future General Fund appropriation of approximately \$11,440 to implement the Marijuana Therapeutic Research Program. The federal designation of marijuana as a schedule 1 drug prohibits it from being a prescribed drug. A change of this designation is necessary before the program can be implemented.

The Department of Human Services may realize a future minimal increase in dedicated revenue from application fees from practitioners who want to participate in the program.'

STATEMENT OF FACT

The amendment removes the role of the Board of Registration in Medicine and establishes the Participation Review Board to review physicians for participation in the program. The amendment reduces the participation fee from \$50 to \$25. These changes make the proposed Marijuana Therapeutic Research Program laws identical to those enacted in 1983, except for the composition of the board and nonsubstantive grammatical differences.

The amendment authorizes the possession of small amounts of marijuana for personal use by persons who suffer side effects of chemotherapy or radiation therapy or who have been diagnosed by a physician as having glaucoma. Juvenile patients must have parental approval. The amendment also authorizes other persons to possess small amounts of marijuana for the sole purpose of providing it to such patients without charge.

The amendment provides an affirmative defense against criminal marijuana charges for persons who suffer side effects of chemotherapy or radiation therapy or who have been diagnosed by a physician as having glaucoma and who possess marijuana, possess marijuana paraphernalia or grow marijuana for their own use. An affirmative defense against charges of furnishing marijuana, possessing paraphernalia and growing marijuana is provided to those who obtain or grow marijuana or obtain paraphernalia for the sole purpose of providing it without charge to such a patient.

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2 The amendment prohibits forfeiture to the State of any
property that would otherwise be subject to forfeiture if not for
4 the affirmative defenses available and the authorization of
possession of a useable amount of marijuana.

6 The amendment also adds a fiscal note to the bill.

Reported by the Committee on Human Resources
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